

BY-LAW NO. 2019 - xx

A by-law of the City of Ottawa to amend By-law No. 2002-189, as amended, with respect to the licensing and regulation of payday loan establishments.

The Council of the City of Ottawa enacts as follows:

1. Section 1 of By-law No. 2002-189, entitled “A by-law of the City of Ottawa respecting the licensing, regulating and governing of certain businesses”, as amended, is amended by inserting the following definitions:

“Payday Loans Act, 2008” means the *Payday Loans Act, 2008*, S.O. 2008, c.9, as amended, and includes any Regulation passed under it;

“payday loan establishment” means a premises where a person or entity is licensed as a lender or a loan broker under the *Payday Loans Act, 2008*;

“payday loan establishment manager” means a person who, alone or with others, has the responsibility of supervising and managing a payday loan establishment”

2. Section 9 of the said By-law No. 2002-189 is amended by adding the following clause immediately after clause (33):

(34) every person who owns or operates a payday loan establishment.

3. Schedule “A” of the said By-law No. 2002-189 is amended by the addition of the following items:

| Column 1                  | Column 2              | Column 3     |
|---------------------------|-----------------------|--------------|
| Description of License    | Annual License Fee \$ | Expiry Date  |
| Payday Loan Establishment | 550                   | September 30 |
| Poster or Replacement     | 20                    | N/A          |

4. The said By-law No. 2002-189 is amended by adding the Schedule No. 34, attached hereto and relating to payday loan establishments, immediately after Schedule No. 33.

EFFECTIVE DATE

5. This by-law shall come into effect [TBD]

ENACTED AND PASSED this xx day of xxxxxxxx 2019.

CITY CLERK

MAYOR

## Schedule No. 34 – Payday Loan Establishments

### LICENSES REQUIRED

1.
  - (1) Every owner or operator of a payday loan establishment shall obtain a payday loan establishment license.
  - (2) A separate payday loan establishment license shall be obtained for each premises operating as a payday loan establishment.

### CONDITIONS OF ISSUANCE

2. No applicant for a payday loan establishment license shall be issued a license unless:
  - (a) the applicant is the owner or operator of the payday loan establishment and is at least eighteen (18) years of age;
  - (b) the applicant has provided the business address of premises together with the address of any other businesses related to the operation;
  - (c) the applicant has provided proof to the Chief License Inspector that the applicant is the holder of a current and valid lender or loan broker license duly issued under the *Payday Loans Act, 2008*, including the applicable license number;
  - (d) the applicant has provided the original documents, dated less than 60 days prior to the date of the application for a license, and annually thereafter, from the appropriate agency outlining acceptable results of investigations for a Criminal Records Check in relation to:
    - i. the applicant, and,
    - ii. the payday loans establishment manager, if he or she is a different person from the applicant;
  - (e) the premises in which the business operates complies with the zoning, building, property standards and signage by-law requirements of the City of Ottawa;
  - (f) the applicant has agreed to indemnify and save harmless the City of Ottawa as required by Section 11 of this Schedule;
  - (g) the applicant has provided proof of insurance as required by Section 12 of this Schedule; and
  - (h) the applicant has paid the licensing and other applicable fees outlined in Schedule "A" of this by-law.

## CONDITIONS FOR RENEWAL

3. No payday loan establishment license shall be renewed unless:
- (a) the applicant has provided proof to the Chief License Inspector that the applicant is the holder of a current and valid lender or loan broker duly issued under the *Payday Loans Act, 2008*;
  - (b) the premises in which the business operates complies with the property standards and signage requirements of the City of Ottawa;
  - (c) the applicant has agreed to indemnify and save harmless the City of Ottawa as required by Section 11 of this Schedule;
  - (d) the applicant has provided proof of insurance as required by Section 12 of this Schedule;
  - (e) the applicant has provided the original documents, dated less than 60 days prior to the date of the application for a renewal, and annually thereafter, from the appropriate agency outlining acceptable results of investigations for a Criminal Records Check in relation to:
    - i. the applicant, and,
    - ii. the payday loans establishment manager, if he or she is a different person from the applicant; and,
  - (f) the applicant has paid the renewal and other applicable fees outlined in Schedule "A" of this by-law.

## ADDITIONAL CONDITIONS

4. The Chief License Inspector may impose such additional conditions with respect to the issuance or the renewal of a payday loan establishment license under this Schedule as he or she deems necessary to ensure public safety and consumer protection.

## GENERAL REGULATIONS

5. No person shall operate a payday loan establishment without first obtaining a license to do so under this by-law.
6. No licensee shall fail to post a license validly issued under this Schedule in a prominent location on the premises of the payday loan establishment so as to be clearly visible to the customers visiting the payday loan establishment.
7. (1) No licensee shall fail to comply with the requirements of the *Payday Loans Act, 2008*.
- (2) Every licensee shall ensure that every individual employed or contracted to provide services or assist in the provision of services offered in the

payday loan establishment complies with the requirements of the *Payday Loans Act, 2008*.

- (3) Every individual employed or contracted to provide services or assist in the provision of services offered in the payday loan establishment shall comply with the requirements of the *Payday Loans Act, 2008*.
- 8.
- (1) Every licensee shall inform the Chief License Inspector immediately, in writing, if the licensee's license under the *Payday Loans Act, 2008*, is suspended, ceases to be valid, is revoked or expires.
  - (2) If a licensee's license under the *Payday Loans Act, 2008*, is suspended, ceases to be valid, is revoked or expires, the license under this schedule is suspended for the entirety of the period that the license under the *Payday Loans Act, 2008* is suspended, ceases to be valid, is revoked or expires.
9. Every licensee shall operate only at the location authorized by the license issued under the *Payday Loans Act, 2008*.

#### DISPLAY OF REQUIRED INFORMATION

- 10.
- (1) No licensee or agent of the licensee shall fail to ensure that every payday loan establishment displays, in each payday loan establishment, the following information on a poster supplied by the Chief License Inspector that is in both English and in French with:
    - (a) the website contact information of the Province of Ontario's Consumer Protection Ontario page entitled "Payday loan: your rights" or alternative website, as determined by the Chief License Inspector;
    - (b) the website contact information for the Government of Canada's Financial Consumer Agency of Canada page entitled "Payday loans" or alternative website, as determined by the Chief License Inspector;
    - (c) the contact information for credit counselling agencies, including their respective telephone number and email address, as approved by the Chief Licensing Inspector; and,
    - (d) any other information required by the Chief License Inspector.
  - (2) No licensee or agent of the licensee shall fail to ensure that the information required in subsection (1) is posted in a prominent location within the payday loan establishment and is clearly and easily visible to customers visiting the establishment.

- (3) The Chief License Inspector may require the licensee or agent of the licensee to replace the poster referred to in subsection (1), from time to time, as required.

## INDEMNIFICATION

11. The licensee shall indemnify and save harmless the City of Ottawa from any and all claims, demands, causes of action, losses, costs or damages that the City of Ottawa may suffer, incur, or be liable for resulting from the performance or non-performance by the applicant or licensee of the requirements and obligations under this by-law, whether with or without negligence on the part of the applicant or licensee, their employees, directors and agents.

## INSURANCE

12.
  - (1) Every applicant for a payday loan establishment license shall file with the Chief License Inspector proof of insurance of Commercial General Liability insurance coverage subject to limits of not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, including loss of use thereof.
  - (2) The insurance required in subsection (1) shall be in the name of the applicant or licensee, as the case may be, and shall name the City of Ottawa as an additional insured.
  - (3) The proof of insurance required in subsection (1) shall contain an endorsement to provide the Chief License Inspector with thirty (30) days' prior written notice of any cancellation or of a material change.

## TRANSFERS

13. A payday loan establishment license pursuant to this Schedule is not transferrable.

## REQUIREMENT FOR PROVINCIAL LICENSE

14. Nothing in this Schedule or By-law should be construed as derogating from the obligation of a payday loan lender or loan broker, as defined by the *Payday Loans Act, 2008*, from obtaining the required license from the Province of Ontario under that Act or to comply with its requirements.

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Enacted by City Council at its meeting of  
xxxx xx 2019.

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LEGAL SERVICES

PB/VB

COUNCIL AUTHORITY:

City Council xxxx xx 2019

Agenda Item xx, (CPSC Report No. xx)