



Report to: General Committee

Date of Meeting: November 20, 2006

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**SUBJECT:** Second Hand Goods By-law  
**PREPARED BY:** Darlene Barker, Provincial Offences Officer Supervisor

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**RECOMMENDATION:**

That By-law 2002-307, "A By-law respecting the Licensing, Regulating and Inspecting of Retailers of Second Hand Goods for the Town of Markham" be amended to exempt the business of trading of electronic games from some of the licensing regulations upon certain conditions and to allow persons under the age of 18 to enter premises for the purpose of trading electronic games.

**PURPOSE:**

To exempt retailers handling used electronic games from current regulations in the Second Hand Goods By-law.

**BACKGROUND:**

By-law 2002-307, "A By-law respecting the Licensing, Regulating and Inspecting of Retailers of Second Hand Goods for the Town of Markham" was passed in December 2002 and became effective January 1, 2003. The authority to license and regulate businesses within the Municipality is found in Section 150 of the *Municipal Act, 2001*, S.O. 2001, C.25.

**OPTIONS/ DISCUSSION:**

The purpose of the by-law is to license and regulate retailers of second hand goods to protect the consumer against purchasing property that may have been obtained by crime:

- Requiring the sellers of property to secondhand goods retailers to be identified by photo ID and to record such identification
- Prohibiting the purchase of secondhand goods by sellers under 18 years
- Recording the transaction of receiving second hand goods and all details thereof, by electronic means, Business Watch International, that is accessed by York Regional Police for investigation purposes
- Keeping all goods for 30 days before offering them for sale
- Permitting inspection of the premises and removal of goods that are suspected stolen

The request for an amendment comes from EB Games Canada. EB Games is a franchised retailer, located primarily in shopping malls and specializing in the sale of electronic games in Canada. The company advises a significant amount of sales in today's market is from the sale of used games and from the sale of new games with an exchange credit acquired with the receipt of a used game. The following business practices with the trading of used electronic games are currently in place and will be incorporated into the amending by-law:

- No cash is paid out by retailer
- Exchange of games only for a new or used game for equal or greater value, such transactions to be completed concurrently
- Identification of the person involved in the transaction is taken and a record of the transaction is kept for period of seven years, electronically at head office of the business

York Regional Police have been contacted for their comments on this amendment. The police would prefer that transactions be tracked using the electronic transaction software required under the by-law. EB Games advise that their current technology system does not support the software in use by second hand goods industry. They do maintain an alternative tracking software that reports transactions at all business locations. They further advise that they would cooperate with the police and Markham staff with the generation of all such reports, upon request. With access to the information, use of the alternative system is supportable by the police and staff.

The following amendments to the by-law will exempt any business operator that exchanges used electronic games for in-store credits, from the following current regulations:

- Use of designated electronic tracking system;
- Accepting second hand goods from persons under 18 years;
- Police clearance letters of store employees;
- Elimination of 30 day holding period before exchanged goods are sold.

Staff have reviewed the request for exemption and recommend the attached amended by-law be approved. Approval of the amendment will still require a Second Hand Goods Licence be obtained and compliance with revised regulations for the trading of electronic games. Operators will continue to be required to meet all by-law requirements should exchanges for cash be made and any operator not complying with the by-law will be subject to normal licencing renewal review and revocation processes.

**FINANCIAL TEMPLATE:**

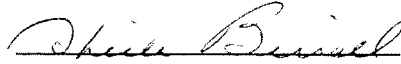
Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

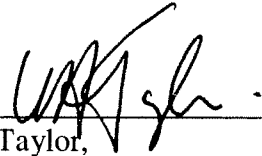
Legal

**RECOMMENDED**

**BY:**



Sheila Birrell,  
Town Clerk



Andy Taylor,  
Commissioner, Corporate  
Services

**ATTACHMENTS:**

Appendix A- Letter of Request- EB Games

Appendix B- Draft Amending By-law



Electronics Boutique Canada  
8995 Airport Road  
Brampton, ON L6T 5T2  
Tel (905) 790-9262

September 1, 2006

Ms. Sheila Birrell, CMO  
Town Clerk  
Town of Markham  
101 Town Centre Blvd.  
Markham, Ontario  
L3R 9W3

Dear Ms. Birrell,

I had the pleasure of meeting with your Markham office on Wednesday August 16, 2006. It was recommended at that time that we write you and formally request an amendment to the Second Hand Goods By-Law. Our wish is to have an exemption written in for those retailers that do not offer cash in exchange for second hand goods.

Understanding that the By-Law stands to protect those citizens whom are victimized by home invasions, EB Games has created a Second Hand goods policy that only allows customers to Trade games for equal or greater value. This eliminates the possibility that thieves are able to liquidate stolen property for cash.

More specifically, we would ask that under this exemption we would pay all license fees but be exempt from the following:

- Business Watch. We are not able to tie another computer into our current system. Also, capturing this personal information at point of trade for future reference can be viewed as a violation of the Privacy Act. A retailer may only collect information for use at point of sale to protect themselves against fraud.
- Hold Period. We ask that this product be place on shelf for sale upon receipt.
- ID & Age Requirement. We strongly believe that a teen who has the ability to purchase a new or second hand game based on ESRB ratings should be able to make the same decision to trade their game for equal or greater value.

We hope you find our request reasonable and agree that our internal policy is an adequate deterrent for home invasion cash conversion. We currently have two stores in Markham, and truthfully, one is in trouble because they cannot support their Second Hand game business. Recently we had to cancel plans for a new store in the Markham Rd. & 14<sup>th</sup> Ave. project because the profit proforma could not be supported without a viable second hand game business.

We thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Tyo', with a stylized flourish extending from the end.

James Tyo  
VP of Canadian Operations,  
General Manager, Canada



## BY-LAW 2006-

A By-law to amend by-law 2002-307, a By-law respecting the Licensing Regulating and Inspecting of Retailers of Second Hand Goods

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WHEREAS Section 150 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes a municipal council to licence, regulate and govern any business wholly or partly carried on within the municipality; and

WHEREAS Council enacted By-law 2002-307 in order to ensure the rightful ownership of second hand goods sold to or traded to second hand goods retailers in the Town, in the interest of public safety and to ensure greater consumer protection; and

WHEREAS Council held a public meeting on October 17, 2006 to discuss the amendments contained within this By-law; and

WHEREAS Council deems it expedient to enact amendments to By-law 2002-307, to permit the trading of electronic games by persons under eighteen years of age, so long as there is no exchange of cash for such games;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM ENACTS AS FOLLOWS;

1. That By-law 2002-307, as amended, be and is hereby amended by adding as Section 2.5 the following:
  - 2.5 The provisions of sections 3.1(1), 3.1(5), 4.1, 4.2, 4.3, 4.4, 5.1, 5.2, 5.3, 5.4, 5.5 and 6.1 of this By-law are not applicable to Second Hand Vendors whose principle business is the sale or exchange of new and used electronic games.
2. That By-law 2002-307, as amended, be and is hereby amended by adding as Section 2.6 the following:
  - 2.6 A Second Hand Vendor whose principle business is the sale or exchange of new and used electronic games shall:
    - 2.6.1 ensure that second hand goods are received only in exchange for new or used goods simultaneously with the same person;
    - 2.6.2 obtain and record photo identification from persons over 16 years of age who provide second hand goods for exchange;
    - 2.6.3 ensure that an electronic tracking system is used to record and store for no less than seven (7) years all information related to the exchange or sale of second hand goods, including the identification of the persons involved in such transactions; and
    - 2.6.4 permit or cause to permit the inspection of information contained in this system by persons described in section 6.3 of this By-law.
3. This By-law comes into force and effect on the date of passing.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS  
DAY OF \_\_\_\_\_, 2006.

\_\_\_\_\_  
CLERK

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MAYOR