

THE CORPORATION OF THE CITY OF SAULT STE. MARIE

BY-LAW NO. 2019-164

PAYDAY LOAN BUSINESS LICENCING: (R1.77) A by-law to licence, govern and regulate payday loan businesses within the City of Sault Ste. Marie.

WHEREAS the Province of Ontario has given municipalities the power to regulate the pay-day lending industry;

AND WHEREAS Part IV of the *Municipal Act*, 2001 allows the enactment of by-laws to license, regulate and govern businesses, and to impose conditions on the obtaining, holding and keeping of licences to carry on such businesses;

AND WHEREAS specifically subsections 151.1(1) & (2) of the *Municipal Act*, 2001 authorizes the City of Sault Ste. Marie to define the location and limit the number of payday loan establishments;

AND WHEREAS pursuant to section 10 of the *Municipal Act*, 2001, a municipality has the broad authority to pass by-laws pertaining to social well-being, protection of persons and property, including consumer protection, and business licensing;

AND WHEREAS Council wishes to exercise its powers over businesses, the persons carrying on or involved in the operation of the businesses including the powers to impose conditions on the obtaining, holding or renewing of licences and for the suspension, denial and revocation of licences as this By-law and the *Municipal Act*, 2001 provide;

AND WHEREAS the regulation of the businesses in this By-law, the requirement for a licence and the imposition of such conditions will aid in the application and enforcement of this By-law and other laws so as to assist in allowing, amongst other things, for the identification and qualification of the persons responsible for the operation of the business, the identification of the location of businesses, the regulation and inspection of equipment, vehicles, premises and other property used to carry on business, and allowing for the protection of persons dealing with or affected by such businesses and persons;

AND WHEREAS Council supports imposing a reasonable fee to assist in the recovery of costs associate with preparing this By-law, issuing licences, and enforcing this By-law;

NOW THEREFORE the Council of the City of Sault Ste. Marie enacts as follows:

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1. DEFINITIONS

In this Schedule:

“applicant” means a person applying for a licence or renewal of a licence thereof under this By-law;

“chartered bank annual consumer loan rate” means the most recent chartered bank – consumer loan rate set out in Table 10-10-0122-01 of the Bank of Canada Financial Market Statistics;

“City” means the Corporation of the City of Sault Ste. Marie;

“Council” means the Council of the City of Sault Ste. Marie;

“payday loan business” means a person or entity licensed as a lender or a loan broker under the *Payday Loans Act*, 2008, S.O. 2008, c.9;

“Person” includes an individual, partnership, corporation, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;

“Clerk” means the City Clerk for the Corporation of the City of Sault Ste. Marie, a delegate or assigned.

2. ADMINISTRATION

2.2. The Clerk, or their designate, shall be responsible for the administration of this by-law and shall be the Issuer of Licences under this by-law.

3. LICENSING

3.1 Licensee

- (1) Every payday loan business shall hold the applicable current and valid licence under this By-law.
- (2) Before a licence may be issued, every applicant for a licence shall submit, for approval of the Clerk, or their designate:
 - (a) Proof of a current and valid licence as a lender or a loan broker under the *Payday Loans Act*;
 - (b) Pay the sums of moneys for a licence as set out in Schedule "A" of this By-law.
 - (c) Complete the prescribed forms;

(d) Each municipality in Ontario in which he/she has carried on business in the year immediately preceding his/her application for a Licence and where the Applicant is a limited company the names and addresses of all the officers of the company shall be disclosed;

(e) Whether he/she, a partner or a corporation of which he/she is an officer or director has been convicted of an offence under a by-law passed by another municipality regulating the types of businesses described herein this bylaw or the *Business Practices Act*, R.S.O. 1990, chapter B. 18; and,

(f) A Criminal Record Check, in the name of the individual owner of the payday loan business, or, if a partnership or corporation, in the name of the manager of the payday loan business, with a piece of supporting government photo identification.

(h) Furnish to the Clerk any such additional information as the Clerk may direct to be furnished.

3.2 Licensor

- (1) The Clerk, or their designate, shall, upon receipt of an application for a Licence, make or cause to be made all investigations required by law or by the City relative to such application.
- (2) In the event that the applicant has been convicted of an offence relating to fraud, theft or a violation of the *Payday Loan Act* or any other payday loan by-law in another municipality, the Sault Ste. Marie Police Services may recommend that a Licence not be issued to the Applicant.
- (3) The Clerk, or their designate, shall on behalf of the City sign all Licences issued by it pursuant to this by-law and their signature may be printed or mechanically reproduced on each Licence issued, and such Licence shall be in such form as the City may, from time to time, designate.

3.3 Issuance of Licence

- (1) If, after making the inquiries required under this by-law, the Clerk, or their designate, is satisfied that a Licence should be issued the Clerk, or their designate, shall issue a Licence to the applicant.
- (2) If, after making the inquiries required under this by-law, the Clerk, or their designate, is of the opinion that a Licence should not be issued, the Clerk, or their designate, shall so advise the applicant in writing. The applicant may, within fourteen (14) days of being so advised, request that the matter of the issuance of the Licence be referred to Council for a final determination of whether a Licence should be issued.

3.3 Cancellation or Revocation of Licence

- (1) Any Licence issued pursuant to the provisions of this by-law may be revoked or cancelled at any time by the Clerk, without notice, subject to the provisions of the *Statutory Powers Procedures Act*, R.S.O. 1990, c S.22 and the *Municipal Act, 2001*, S.O. 2001, c. 25:

- a. For any reason that would disentitle the holder of the Licence if he or she were an applicant;
 - b. If the information in the application is false;
 - c. If the operation of the Licencee's business is or will not be carried on in compliance with the law;
 - d. If the conduct of the Licencee is calculated to mislead, deceive, or intimidate the public, or in a manner contrary to the provisions of this by-law.
- (2) Upon cancellation or revocation of a Licence, the Licencee shall return to the Clerk, or his/her designate, all Licence certificates and licence plates, badges and other indicia issued by the City with reference to such Licence.

3.4 Lost Licences

- (1) Upon the Clerk, or his/her designate, being satisfied that a Licence has been lost and that the Applicant for a new Licence form has made a diligent search therefor and is making application for a new Licence form in good faith, and if such Applicant undertakes in writing to the Clerk, or his/her designate, to surrender the lost Licence form to him if found, the Clerk, or his/her designate, may issue a duplicate Licence to such applicant which shall consist of a true copy of the original Licence upon which the word "duplicate" is endorsed over the signature of the Clerk, or his/her designate. A fee as per Schedule "A" of this By-law shall be charged for any replacement Licence issued.

3.5 Transfer Not Permitted

- (1) No person shall enjoy a vested right in the continuance of a Licence and upon the issue, renewal, transfer or suspension thereof, the value of a Licence shall be the property of the City.
- (2) No Licence shall be transferred except upon the written approval of Council.

3.6 Partnership

- (1) Where two or more persons carry on or engage in partnership in business, the Licence may be issued in the name of one partner only, but when the application for Licence is made, the name and address of each member of the partnership shall be set out therein.
- (2) Where a business is carried on under a name other than that of the Licencee, the Licence shall nonetheless be issued in the name of the Licencee, but there shall be endorsed thereon the name under which the business is carried on and no person shall carry on any such business under any name other than a name so endorsed upon the Licence.

4. LOCATION

- (1) No new payday loan business shall be issued a licence for a location that would not be a permitted use per City Zoning By-law 2005-150, as amended.

- (2) No payday loan business shall be located and no payday loan business licence shall be issued except for in areas as permitted by subsections 4(4) and 4(6)
- (3) No more than 10 payday loan business licenses shall be issued.
- (4) Council may consider a request to increase the maximum number of 10 payday loan businesses should the maximum number be reached.

5. RESPONSIBILITIES OF LICENCEE

- (1) Every person obtaining a Licence under this by-law, where the same applies to a place or premises used in the carrying on of the business, shall keep the Licence posted up in a conspicuous place on the business premises in respect of which the Licence is issued, and every person so Licenced shall, when so requested by any member of the Sault Ste. Marie Police Service, a Municipal By-law Enforcement Officer, or the Clerk, or their designate, produce a Licence for inspection.
- (2) Every person obtaining a Licence under this by-law, where the same applies to the occupation of such person, shall carry his/her Licence with him when engaged in the occupation for which the Licence is issued, and every person so Licenced shall, when so requested by any member of the Sault Ste. Marie Police Services, Municipal By-law Enforcement Officer, or Clerk, or their designate, produce a Licence for inspection.

6. REQUIRED SIGNAGE

6.1 Poster for Rates

(1) Every payday loan business shall display a poster at each of the offices authorized by its *Payday Loans Act*, 2008 licence that:

- (a) is in both official languages;
- (b) is visible to any person immediately upon entering the office;
- (c) is of a minimum size of 61 centimetres in width by 91 centimeters in length; and
- (d) consists of:
 - (i) in 144 point font, a heading setting out the words "Our Annual Interest Rate" and the amount of the payday loan business's annual interest rate, which may be shown on a replaceable card attached to the face of the poster or by any other similar means, immediately below the heading;

(ii) in 144 point font, a heading setting out the words "Chartered Bank – Annual Consumer Loan Rate" and the chartered bank annual consumer loan rate, which may be shown on a replaceable card attached to the face of the poster, immediately below the heading; and

(iii) in 34 point font and below 6.1(1)(e)(i) and 6.1(1)(e)(ii) the words "This poster is required pursuant to the City of Sault Ste. Marie's Payday Loan By-law 2019-164."

6.2 Poster for Credit Counselling

(1) Every payday loan business shall display a poster at each of the offices authorized by its *Payday Loans Act*, 2008 licence that:

(a) is in both official languages;

(b) is visible to any person immediately upon entering the office;

(c) is of a minimum size of 61 centimetres in width by 91 centimeters in length; and

(d) consists of:

(i) in 144 point font, a heading setting out the words "Credit Counselling";

(ii) in 144 point font, a heading setting out the word "Contact" followed by one or more of the following credit counselling agencies:

(1) Credit Counselling Canada,

(2) Canadian Association of Credit Counselling Services,

(3) Ontario Association of Credit Counselling Services,

(4) Canadian Association of Independent Credit Counselling Agencies, together with their respective telephone number and email address; and

(iii) in 34 point font and below 6.2(1)(e)(i) and 6.2(1)(e)(ii) the words "This poster is required pursuant to the City of Sault Ste. Marie's Payday Loan By-law 2019-164."

6.3 Credit Counselling Information

(1) Every payday loan business shall ensure that each person who attends at its offices is given, immediately upon him or her expressing an interest in a loan, a credit-counselling brochure as approved by the City in passing this by-law.

7. ADMINISTRATION AND ENFORCEMENT

7.1 Enforcement Agency

- (1) The Sault Ste. Marie Police Service and the City's Municipal By-law Enforcement Officer(s), or a designate, shall be responsible for the enforcement of this by-law.

7.2 Inspections and Re-inspections

- (1) The Sault Ste. Marie Police Service, a Municipal By-law Enforcement Officer or any person acting under those persons, or any person authorized by the City may at reasonable times during business hours inspect as much of any place or premises carrying on any business in respect of which a person has or is required to have a Licence.
- (2) When a re-inspection is required to confirm compliance with the provisions of this by-law a fee in the amount set out in Schedule "A" of this by-law shall be charged.

7.3 Offences and Penalties

- (1) Any person violating any of the provisions of this by-law shall be subject to a penalty of not more than \$5,000.00, exclusive of costs, and all such penalties shall be recoverable under the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- (2) For the purposes of this section, a separate violation shall be deemed to have been committed for each and every day during which such violation continues, and conviction in respect of a violation shall not operate as a bar to further prosecution if such violation continues.

8. ENACTMENT

8.1 Interpretation

- (1) In this by-law, unless the context otherwise requires, words importing the singular member shall include the plural and words importing the masculine shall include the feminine.

8.2 Conflict

- (1) In the case of a conflict between the provisions of this by-law and any other municipal by-law, the provisions of this by-law shall prevail.

8.3 Severances

- (1) If any section, subsection, sentence, clause, phrase or provision of this bylaw is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the by-law. The City hereby declares that it would have passed this by-law and each section, subsection, sentence, clause, phrase and provision herein, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions be declared invalid.

8.4 Effective Date

- (1) This by-law shall be effective on January 1st, 2020. Any payday loan business within the City shall have two (2) months from the previously mentioned effective date to comply with all requirements with this by-law.

PASSED in open Council this 23rd day of September, 2019.



MAYOR – CHRISTIAN PROVENZANO



CITY CLERK – RACHEL TYCZINSKI

SCHEDULE "A" – FEE SCHEDULE

| | |
|----------------------------------|-----------|
| Payday loan annual licensing fee | \$1000.00 |
| Re-inspection fee | \$100.00 |
| Replacement fee for lost licence | \$50.00 |