

BYLAW NO. 9227

A Bylaw to Regulate Secondhand Dealers and Pawnbrokers

THE COUNCIL OF THE CITY OF KELOWNA, in open meeting assembled, enacts as follows:

**SECTION 1
INTERPRETATION**

1.1 This Bylaw may be cited as the “Secondhand Dealers and Pawnbrokers Bylaw”.

1.2 In this Bylaw:

“Chief of Police” means the Officer in Charge as appointed from time to time, of the Kelowna City Detachment of the Royal Canadian Mounted Police and includes his or her designates;

“Inspector” means the person appointed from time to time as Chief Licence Inspector of the City of Kelowna, and any deputy of the Inspector;

“junk” means used or old property including scrap rubber, rubber tires, metal, bottles, glass, broken glass, paper, sacks, wire, ropes, rags, machinery, waste or scrap metal, or other property commonly found in a junk shop

“junk dealer” means a secondhand dealer who carries on the business of dealing in junk, who operates a junk dealer’s premises or who purchases or sells junk;

“licence” means a licence to carry on a business, trade, profession, or other occupation issued under the Licence Bylaw;

“pawn” means the deposit of property as a pledge or collateral security for a debt;

“pawnbroker” means a person who carries on the business of taking property in pawn, or who operates a pawnbroker’s premises;

“pawner” means a person, firm, or corporation who pawns property to a pawnbroker but does not include a seller;

“picture identification” means one or more of the following that includes a photograph of the bearer:

(a) valid driver’s licence issued by a Canadian province or territory,

- (b) provincial identity card,
- (c) passport issued by a legitimate government,
- (d) certificate of Indian status issued by the Government of Canada,
- (e) certificate of Canadian citizenship issued by the Government of Canada, or
- (f) conditional release card issued by Correctional Services Canada;

“police force” means the Kelowna City Detachment of the Royal Canadian Mounted Police;

“premises” means any shop, store, or other place where a secondhand dealer or pawnbroker carries on the business of secondhand dealing or pawnbroking;

“property” means goods, chattels, wares, merchandise, articles, or things, including motor vehicles and trailers as defined by the *Motor Vehicle Act*, R.S.B.C. 1996, c.318;

“purchase” means to buy, barter, deal in, take in exchange, take in part payment, acquire, acquire on consignment, or receive, but does not include pawning;

“register” means the Secondhand Dealers and Pawnbrokers Register referred to in each of section 2.3 and where this Bylaw stipulates that a secondhand dealer or pawnbroker has an obligation in connection with a register, the reference is to that register which the secondhand dealer or pawnbroker is obliged, under section 2.3, to establish and maintain,

“secondhand dealer” means a person who carries on the business of retailing or wholesaling used or secondhand property, or who operates a secondhand dealer’s premises, except for a person who carries on the business of retailing or wholesaling used property limited to:

- (a) used clothing, furniture, costume jewellery, knickknacks, footwear, and houseware items such as dishes, pots, pans, cooking utensils, and cutlery; or
- (b) used clothing, furniture, costume jewellery, footwear, and houseware items such as dishes, pots, pans, cooking utensils, and cutlery, obtained only from or through a “registered charity” defined under the *Income Tax Act* (Canada) or by donation; or
- (c) used books, papers, magazines, vinyl records, or long playing records (LP’s);

“seller” means a person, firm, or corporation who sells or otherwise disposes of property to a secondhand dealer but does not include a pawner.

- 1.3 If a Court finds any provision or part of a provision in this Bylaw illegal, unenforceable, or void, the remaining provisions or parts of provisions will continue to have full force and effect.
- 1.4 References in this Bylaw to individual sections and their numbers are to sections and numbers in this Bylaw.

SECTION 2 SECONDHAND DEALERS AND PAWNBROKERS

- 2.1 Each secondhand dealer and pawnbroker must establish and maintain a record, to be called the "Secondhand Dealers and Pawnbrokers Register", of all property, other than recyclable beverage containers, purchased by the dealer or taken in pawn by the pawnbroker.
- 2.2 Each secondhand dealer and pawnbroker, immediately after the purchase or taking in pawn of any property, must set out in the register in the English language a record of the purchase or pawn, in chronological order by date of purchase. The record must include:
 - (a) the name, residence or street address, and birth date of the seller from whom the secondhand dealer, or any employee of the dealer, purchased the property, or of the pawner from whom the pawnbroker, or any employee of the pawnbroker, took the property in pawn;
 - (b) confirmation of the identity of the seller or pawner by way of picture identification including a complete description of the picture identification and name of the authority who issued it;
 - (c) a complete description of the property including the make, model, and serial number;
 - (d) the type of purchase as described in the definition of "purchase", or the type of acquisition, being a pawn;
 - (e) the price paid for the property or the amount paid for the property in pawn;
 - (f) the precise date and hour of purchasing the property or taking the property in pawn;
 - (g) identifiable or distinguishing marks on the property; and
 - (h) in the case only of a secondhand dealer or pawnbroker who is a junk dealer purchasing metal salvage, the make, description, and provincial licence number of any motor vehicle used by the seller or pawner to deliver the property to the secondhand dealer's or pawnbroker's premises.

- 2.3 Each secondhand dealer or pawnbroker must:
- (a) maintain the register electronically in a form approved by the Chief of Police;
 - (b) record all information in the register electronically;
 - (c) transmit to the Chief of Police electronically, to a database provided by the City of Kelowna via the Internet and using a site licence and password provided by the Chief of Police, a report consisting of each entry in the electronic register of property purchased by the dealer or taken in pawn by the pawnbroker, immediately after the purchase or the pawn occurs;
 - (d) before the close of each business day, print out a hard copy of all electronic information recorded during the course of the day, and maintain all such hard copies as a manual version of the register;
 - (e) whenever the secondhand dealer or pawnbroker is unable, for any reason, to record entries electronically, revert to maintenance of a handwritten register in the form attached to this Bylaw as Schedule A until electronic recording is again available so that no gap in the secondhand dealer's or pawnbroker's record keeping or reporting will exist;
 - (f) if the dealer or pawnbroker is unable, for any reason, to record or transmit the entries electronically, once electronic recording and transmitting is again available, immediately transmit to the Chief of Police electronic entries for all purchases or pawns made by the dealer or pawnbroker and not previously recorded or transmitted.
- 2.4 A secondhand dealer or pawnbroker must not amend, obliterate or erase any entry in the register, either wholly or partially or electronically or manually.
- 2.5 Each secondhand dealer or pawnbroker, during business hours on business days, must make the register available for inspection by the Chief of Police, any police force member, any person designated by the Chief of Police, the Inspector, or any person authorized to inspect on the Inspector's behalf.
- 2.6 The Chief of Police, police force member, or person designated by the Chief of Police may remove a secondhand dealer's or pawnbroker's register from the dealer's or pawnbroker's premises at any time for inspection at the Office of the police force or for use as evidence in Court.
- 2.7 Immediately upon return of the register taken under section 2.6 to the secondhand dealer or pawnbroker, the dealer or pawnbroker must record in the register, in chronological order, under section 2.3, every purchase by the dealer or every taking by the pawnbroker of property that occurred during the absence of the register.
- 2.8 Each second hand dealer or pawnbroker must:

- (a) subject to section 2.6, keep on its premises the register, or any portion of the register, that contains any entry that is less than 24 months old;
 - (b) keep within the Province of British Columbia, the register for seven years after the date of the last entry; and
 - (c) if the secondhand dealer or pawnbroker sells, leases, or otherwise disposes of the dealer's or pawnbroker's business to any person, transfer possession of the whole register to such person.
- 2.9 A secondhand dealer or pawnbroker must not carry on the business of buying or selling secondhand property or the taking in pawn of any property except at the premises designated in the dealer's or pawnbroker's licence.
- 2.10 A secondhand dealer or pawnbroker must not purchase or take in pawn any property from any person between 8 p.m. of one calendar day and 8 a.m. of the next calendar day.
- 2.11 A secondhand dealer or pawnbroker must not purchase or take in pawn any property whose serial number or other identifiable marking has been wholly or partially tampered with or removed.
- 2.12 A secondhand dealer or pawnbroker must not purchase or take in pawn any property from any person under the age of 18 years.
- 2.13 Each secondhand dealer or pawnbroker, on demand by the Chief of Police or any police force member during business hours on business days, must permit the Chief of Police, any police force member, or any person designated by the Chief of Police or by a police force member to inspect:
- (a) any property in the secondhand dealer's or pawnbroker's premises;
 - (b) the secondhand dealer's or pawnbroker's premises.
- 2.14 Each secondhand dealer or pawnbroker must paint and maintain the secondhand dealer's or pawnbroker's name and address plainly and visibly in English lettering on the front of the secondhand dealer's or pawnbroker's premises and on both sides of any vehicle or vessel used in carrying on the dealer's or pawnbroker's business.
- 2.15 During the applicable period of time set out in section 2.16, each secondhand dealer or pawnbroker, with respect to each item of property the dealer purchases or the pawnbroker takes in pawn, must:
- (a) clearly and individually tag by date of purchase or pawn, and clearly and physically separate from other property in the secondhand dealer's or pawnbroker's premises, the item of property;

- (b) not repair, alter, dispose of, part with possession of, or remove from the secondhand dealer's or pawnbroker's premises the item of property; and
 - (c) not suffer or permit any other person to repair, alter, dispose of, part with possession of, or remove from the secondhand dealer's or pawnbroker's premises the item of property.
- 2.16 Each secondhand dealer or pawnbroker must comply with the requirements of section 2.15, with respect to each item of property the dealer or pawnbroker purchases or takes in pawn, for the longer of:
- (a) 30 calendar days after the date a secondhand dealer or pawnbroker who maintains an electronic register purchases or takes in pawn the item of property;
 - (b) the number of days of which the Chief Constable or any police force member advises the secondhand dealer or pawnbroker, which must not exceed 90 days after the date the secondhand dealer or pawnbroker purchases or takes in pawn the property.
- 2.17 If a junk dealer, before expiry of the applicable time period under section 2.16, wishes to sell or dispose of any property, the junk dealer may deliver a written request to the Chief of Police who may waive in writing the dealer's obligation to comply with the applicable time period on such conditions as the Chief of Police considers advisable.
- 2.18 A secondhand dealer who also holds a licence as a pawnbroker must clearly and physically separate all property purchased as a secondhand dealer from property taken in pawn and must clearly and individually tag each item of property to indicate date of purchase and whether the dealer purchased such item or took it in pawn.
- 2.19 A secondhand dealer who retails or wholesales any new property in the same premises where the retailing or wholesaling of used or secondhand property occurs must obtain a Retail Dealer business licence under the Licence Bylaw.
- 2.20 Every person or individual carrying on the business of a pawnbroker or second-hand dealer shall supply the License Inspector and the Officer in Charge of the Royal Canadian Mounted Police with the full name, date of birth, current address, and description of every individual proposed to be employed prior to their employment, and every individual engaged in the management, or control, of the said business.
- 2.21 Every holder of a business license for a pawnbroker or second-hand dealer shall notify the License Inspector and Officer in Charge of the Royal Canadian Mounted Police of any changes in the persons engaged or employed in the said business during the business license period by supplying the information listed in sub-section 2.20 of this bylaw with respect to those persons.

**SECTION 3
OFFENCES AND PENALTIES**

- 3.1 Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw or who does any act which violates any of the provisions of this bylaw, shall be guilty of an offence against this bylaw and liable to the penalties hereby imposed.
- 3.2 Every person who commits an offence against this bylaw is punishable on conviction by a fine of not less than \$100.00 and not more than \$5,000.00 for each offence.
- 3.3 Every person who commits an offence of a continuing nature is liable to a fine not exceeding \$50.00 for each day such offence is continued.

READ A FIRST TIME this ___ day of _____, 2004.

READ A SECOND TIME this ___ day of _____, 2004.

READ A THIRD TIME this ___ day of _____, 2004.

ADOPTED this ___ day of _____, 2004.

Mayor

Clerk