

SUMMARY:

The Second Hand Dealer and Pawnbroker Regulation Bylaw sets out the licensing requirements for pawnbrokers and second hand dealers; outlines the information that must be recorded with respect to the person pawning the goods; and how pawned goods must be recorded, stored, and reported to the RCMP. The bylaw also provides for the inspection of the business premises and sets time limits for the disposal of pawned goods.

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CITY OF KELOWNA

BYLAW NO. 9227

REVISED: October 15, 2007

CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAW NOS. 9637 and 9866

A Bylaw To Regulate Second-Hand Dealers and Pawnbrokers

WHEREAS the Council considers it necessary to regulate the businesses of second-hand dealers and pawnbrokers within the City of Kelowna;

NOW THEREFORE the Municipal 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 No. 9227".

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;

BL9637 added the following definition:

"Business Day" means any calendar day, including any holidays, during which a secondhand dealer or pawnbroker is open for business to one or more members of the public;

"Inspector" means all persons duly appointed by the City for the purpose of enforcing the provisions of the Business License and Regulation Bylaw No. 7878, as amended or replaced from time to time;

"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 as required by the City of Kelowna Business License and Regulation Bylaw No. 7878, as amended or replaced from time to time;

“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 as defined in this bylaw;

BL9637 amended the definition:

“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) valid provincial identity card;
- c) valid passport issued by a legitimate government;
- d) Certificate of Indian Status issued by the Government of Canada;
- e) valid Certificate of Canadian Citizenship issued by the Government of Canada;
- f) valid 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 pawnbrokering;

“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 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, to establish and maintain;

BL9637 added the following definition:

“Retailer” means any person who carries on the business of selling goods or commodities directly to the public;

BL9637 added the following definition:

“Retail Packaging” includes boxes, plastic wrapping or display casing in which individual goods are commonly displayed for sale by retailers and in respect of articles of clothing means the sales or inventory tag attached to the articles by the retailer with the bar cod, store keeping unit or the retailer’s similar identifying characteristics.;

BL9637 added the following definition:

“Sales Receipt” means the receipt or proof of purchase issued by the retailer to the purchaser at the time of purchase of retail goods which includes the price, date of sale, name and location of the retailer and description of the goods;”

“secondhand dealer” or “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 pawnner as defined in this bylaw.

- 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.

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:

BL9866 amended sub-paragraph 2.2(a):

- (a) the name, residence or street address of the seller from whom the secondhand dealer, or any employee of the dealer, purchased the property, or of the pawnner from whom the pawnbroker, or any employee of the pawnbroker, took the property in pawn;
- (b) confirmation of the identity of the seller or pawnner by way of picture identification including a complete description of the picture identification and name of the authority who issued it;

BL9637 amended paragraph (c):

- (c) a complete description of the property including the make, model and accurate 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;

BL9637 amended paragraph (f):

- (f) the precise date and hour of purchasing the property or taking the property in pawn or purchase.
- (g) identifiable or distinguishing marks on the property; and

BL9866 and BL9637 amended sub-paragraph (h):

- (h) where the pawnbroker or secondhand dealer has taken in pawn or purchased a new item or an item in it’s retail packaging, an indication that the item was new or in it’s retail packaging.”

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;

BL9866 amended (c):

- (c) transmit to the Chief of Police electronically, to a specified database via the Internet and using a site licence and password provided by the Chief of Police, information pertaining to the identification of property purchased by the dealer or taken in pawn by the pawnbroker, immediately after the purchase or the pawn occurs;

BL9637 deleted paragraph (d) and replaced it with the following:

- (d) when requested by an inspector, print out a hard copy of all electronic and manual information recorded during the course of the day;

BL9637 added the following new paragraph (e); BL9866 deleted paragraph (e) and renumbered subsequent paragraphs:

- (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.

BL9866 deleted paragraphs 2.6 and 2.7 and renumbered subsequent paragraphs:

- 2.6 Each second hand dealer or pawnbroker must:
 - (a) subject to sub-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.
- 2.7 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.
- 2.8 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.
- 2.9 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.

BL9637 deleted subsection 2.12 and replaced with the following:

- 2.10 A secondhand dealer or pawnbroker must not purchase or take in pawn any property from a person under the age of 19 years;
- 2.11 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.

2.12 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.

BL9637 added subsection 2.14A as follows:

2.13A Each secondhand dealer or pawnbroker, with respect to each item of property dealer purchases or the pawnbroker takes in pawn, must clearly and individually tag by date of purchase or pawn the item of property and must maintain the tag on the property until disposed of.

2.13 During the applicable period of time set out in sub-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:

BL9637 deleted and replaced paragraph (a) with the following:

(a) clearly and individually tag by date of purchase or pawn, and clearly and physically separate and keep out of sight 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.

2.14 Each secondhand dealer or pawnbroker must comply with the requirements of sub-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.

2.15 If a junk dealer, before expiry of the applicable time period under sub-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.

- 2.16 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.

BL9637 deleted the word “Byaw No. 7878” and replaced it with the correct spelling:

- 2.17 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 business licence under Business License and Regulation Bylaw No. 7878, as amended or replaced from time to time, for both types of businesses.
- 2.18 Every person or individual carrying on the business of a pawnbroker or second-hand dealer shall supply the Inspector and the Chief of 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.
- 2.19 Every holder of a business license for a pawnbroker or second-hand dealer shall notify the Inspector and Chief of 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.

BL9637 added a new sub section as follows:

- 2.20 Each secondhand dealer or pawnbroker must not purchase or take in pawn, hold or sell, any item of property in, or with, retail packaging unless the seller or pawner provides the dealer or pawnbroker with a sales receipt and the dealer or pawnbroker must retain the sales receipt for a period of one year beyond the date that the property is disposed of.

BL9637 added a new sub section ss follows:

- 2.21 secondhand dealer or pawnbroker must not employ a person who has within the receding five (5) year period been convicted of an offence listed on Schedule “B” to this Bylaw unless the inspector has granted an exemption in accordance with subsection 2.24.

BL9637 added a new sub section as follows:

- 2.22 A person who is ineligible for employment by a secondhand dealer or pawnbroker pursuant to subsection 2.23 may apply to the licence inspector for an exemption permitted the person to be employed by the secondhand dealer or pawnbroker and the licence inspector in deciding whether to grant the exemption may consider:
- (a) information from the person regarding the circumstances leading to the conviction or convictions;
 - (b) information from a law enforcement agency regarding the circumstances leading to the conviction or convictions;
 - (c) information with respect to the person’s performance of parole or probation conditions, including information from a parole or probation officer; and

- (d) whether the person has been convicted of more than one (1) offence listed in Schedule "B" to this bylaw within the preceding five (5) years."

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.

BL9637 added a new subsection 3.2 as follows:

- 3.2 A person commits an offence by recording or supplying false or misleading information:
 - (a) in the Register; or
 - (b) in any transmission to the specified database under subsection 2.3(c).
- 3.3 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.
- 3.4 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.

SECTION 4 - REPEAL

4.1 City of Kelowna "Second Hand Dealer and Pawnbroker Regulation Bylaw No. 7611" and all amendments thereto are hereby repealed.

Read a first, second and third time by the Municipal Council this 17th day of May, 2004.

Adopted by the Municipal Council this 7th day of June, 2004.

Mayor

City Clerk

BL9866 added a new Schedule
"A"

SECOND HAND & PAWNBROKER DEALERS' REPORT

To: OIC RCMP Det.,
350 Doyle Ave.,
Kelowna, B.C.

Date 20 10:00 a.m.

I hereby certify that the following is a correct copy of the entries in my book of all articles received during the twenty-four hours immediately preceding the hour of date of this

Certificate, in compliance with the Bylaw regulating the same, and that the said entries are true.

Report of:
Signature:

Business Name:

IDENTITY No.	TIME RECEIVED A.M. P.M.	DESCRIPTION OF ARTICLE (ONE ITEM PER ENTRY)		PERSON SELLING ARTICLE OR PAWNING ARTICLE			DATE RETURNED
		TYPE OF ARTICLE	MAKE	SURNAME (PRINT)	GIVEN NAME	SIGNATURE	
	AMOUNT PAID	SERIAL NUMBER	ADDRESS				
		COLOR					
		MODEL OR OTHER INFORMATION	POLICE REMARKS AND OTHER INFORMATION				OR DATE SOLD
	PAWN <input type="checkbox"/>						
	PURCHASE <input type="checkbox"/>						
	TIME RECEIVED	TYPE OF ARTICLE	SURNAME (PRINT)		GIVEN NAME		DATE RETURNED
	A.M. P.M.	MAKE	ADDRESS		SIGNATURE		
	AMOUNT PAID	SERIAL NUMBER					
		COLOR					
		MODEL OR OTHER INFORMATION	POLICE REMARKS AND OTHER INFORMATION				OR DATE SOLD
PAWN <input type="checkbox"/>							
PURCHASE <input type="checkbox"/>		VEHICLE DESCRIPTION					
	TIME RECEIVED	TYPE OF ARTICLE	SURNAME (PRINT)		GIVEN NAME		DATE RETURNED
	A.M. P.M.	MAKE	ADDRESS		SIGNATURE		
	AMOUNT PAID	SERIAL NUMBER					
		COLOR					
		MODEL OR OTHER INFORMATION	POLICE REMARKS AND OTHER INFORMATION				OR DATE SOLD
PAWN <input type="checkbox"/>							
PURCHASE <input type="checkbox"/>		VEHICLE DESCRIPTION					

BL9637 added a Schedule "B" as follows:

Appendix A

SCHEDULE "B"

Offences under the following parts of the Criminal Code of Canada, R.S.C. 1985, c. 46:

- Part IX
- Part X
- Part XI
- Part XII.2
- Any offence under Part XIII in relation to any section in Parts IX, X or XI of the Criminal Code of Canada or sections 5, 6, or 7 of the Controlled Drugs and Substances Act, S.C. 1996, c. 19.

Offences under the following sections of the Controlled Drugs and Substances Act, S.C. 1996, c. 19:

- Section 5
- Section 6
- Section 7