

ORDINANCE NO. **140**

AN ORDINANCE OF THE CITY OF DALTON GARDENS, IDAHO,
REGULATING THE BUSINESS OF PAWNBROKING SETTING
FEES AND GUIDELINES THEREFORE

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY
OF DALTON GARDENS, IDAHO, AS FOLLOWS:

SECTION:

1. Definitions
2. License and Fee
3. Exemptions; Nonprofit Charitable Organizations,
Secondhand Clothing Sales
4. Minors; Purchasing Secondhand Articles from Prohibited
5. Minors; Accepting Property from as Pledge for a Loan
Prohibited
6. Records Required; Contents and Identification Requirements
7. Report; Purchase of Secondhand Articles
8. Report; Acceptance of Property as Pledge for Loan
9. False or Fictitious Information
10. Lease or Contract Purchase
11. Sales
12. Forfeitures
13. Violation; Penalty
14. Stolen Property; Policy Hold; Seizure
15. Authority to Confiscate

SECTION 1:

DEFINITIONS: The following definitions shall apply to the
terms used in this Chapter:

PAWNBROKER:

Any person, association or corporation which, in the
course of its business, loans money and receives as a security
personal property as a pledge or holds such personal property
under a conditional sales contract or an agreement to resell
such personal property to the borrower or his assignee at a
price agreed upon, at or before the time of such transaction,
except the term shall not apply to banks, trust companies or
bond brokers who may be regulated by law and authorized to deal
in commercial paper, sales of stock, bonds or other
certificates of value.

SECONDHAND DEALER:

Any person, association or corporation engaging in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in used or secondhand personal property, rebuilt or reconditioned goods, wares or merchandise; providing that this term shall not apply to a person conducting casual or isolated sales of one's own personal property; provided, further, that this term shall not apply to a retail dealer of used or secondhand merchandise whose stock of merchandise consists at least ninety percent (90%) of objects of art, bric-a-brac, curios or household furniture or furnishings offered for sale upon the basis, express or implied, that the value of the property, in whole or in substantial part, is derived from its age or from its historical association; provided, further, that this term shall not apply to dealers of new articles who allow their patrons an exchange value on used or secondhand articles, when selling a new article, coin shop or auto wreckers or used car dealers holding dealer permits.

ENFORCEMENT AUTHORITY:

Code Enforcement Officer of the City of Dalton Gardens and/or Kootenai County Sheriff, or his authorized representatives.

SECTION 2:

LICENSE AND FEE:

A.

1. No person shall engage in, conduct or carry on the business of loaning money with articles kept as security or to buy and sell used articles without first obtaining a license to do so from the City Clerk of the City of Dalton Gardens. The fee for such license shall be as set by the City Council.

2. No license shall be issued under this Chapter to any person, partnership, or association if such person, member of the partnership, any officer, director, or manager of any corporation or association or any person having a direct financial interest in the business other than as lessor, mortgagee, or vendee, has been convicted of a felony or had a license under this Chapter revoked, within five (5) years of the date of application for license, or unless the applicant is a citizen of the United States of America.

3. All applications for a license under this Chapter shall be made to the City Clerk and shall be referred to the Code Enforcement Officer or Sheriff of Kootenai County, Idaho, hereinafter referred to as Enforcement Authority, which shall inquire into the qualifications of the applicant. In order to determine an individual's suitability for licensing with the City of Dalton Gardens, the Enforcement Authority shall require each specified applicant to be fingerprinted and shall forward the fingerprints through the Idaho Department of Law Enforcement/Bureau of Criminal Investigation to the F.B.I. Identification Division for a criminal history check. Fees required for the criminal history check shall be tendered at such time as the application is made. Should the Enforcement Authority determine that the applicant is qualified for a license under the provisions of this Chapter, it shall report to the City Clerk that the applicant is qualified and the license shall be issued by the Clerk. Should the Enforcement Authority find that the applicant does not meet the qualification requirements under this Chapter, the application shall be denied.

B.

1. No license required by this Chapter is transferable from one person or location to another person or location.

SECTION 3:

EXEMPTIONS; NONPROFIT CHARITABLE ORGANIZATIONS, SECONDHAND CLOTHING SALES:

Stores dealing in secondhand clothing only, and all nonprofit, charitable organizations are exempt from the requirements of this Chapter.

SECTION 4:

MINORS; PURCHASING SECONDHAND ARTICLES FROM PROHIBITED:

It is unlawful for any person who conducts a business which business wholly or in part consists of buying used or secondhand articles, goods, wares or merchandise, to purchase any such used or secondhand property from any person under the age of eighteen (18) years.

SECTION 5:

MINORS; ACCEPTING PROPERTY FROM AS PLEDGE FOR A LOAN PROHIBITED:

It is unlawful for any person who conducts a pawnshop or

secondhand store to accept any article as a pledge for a loan from any person under the age of eighteen (18) years.

SECTION 6:

RECORDS REQUIRED; CONTENTS AND IDENTIFICATION REQUIREMENTS:

A. Every such pawnshop or dealer in used or secondhand articles, goods, wares or merchandise shall maintain a record of each loan or purchase transaction. This record shall be maintained in an invoice book approved by the Enforcement Authority. The book must be either duplicate or triplicate with invoice numbering maintained in sequence. Each invoice shall have the following information legibly recorded upon it.

1. The date, hour and place of transaction;
2. A true, accurate and complete description of each article involved, including serial number and name of manufacturer;
3. The amount loaned or paid for each article;
4. The name, address, date of birth and complete physical description of the person borrowing on or selling the article;
5. The type of identification presented.

B. The pawnshop or secondhand dealer must require official identification and record the name, address, date of birth and physical description of the person borrowing or selling the article from that identification.

C. The records shall be open to the inspection of the police, City officials, the sheriff and other law enforcement officers of the State of Idaho at any and all times.

D. The Enforcement Authority, or his duly authorized representative, shall have the right at any time to enter any premises licensed under this act and to inspect any article pawned or purchased by the licensee under his license and examine the same, to determine that the licensee has and is complying with all laws, statutes, ordinances, rules and regulations of the United States, the State of Idaho, and the City of Dalton Gardens.

SECTION 7:

REPORT; PURCHASE OF SECONDHAND ARTICLES:

Every such pawnshop or dealer in secondhand articles shall render the first carbon copy of each purchase transaction to the Sheriff's Office of Kootenai County, Idaho, to be available on a daily basis.

SECTION 8:

REPORT; ACCEPTANCE OF PROPERTY AS PLEDGE FOR LOAN:

Every such pawnshop shall render the first carbon copy of each loan transaction to the Sheriff of Kootenai County, Idaho, to be available on a daily basis.

SECTION 9:

FALSE OR FICTITIOUS INFORMATION:

It is unlawful for any person to use a false name, a fictitious address or any address other than the true address or to furnish any false, untrue or misleading information or statement relating to the information required by any section of this Chapter.

SECTION 10:

LEASE OR CONTRACT PURCHASE:

It is unlawful for any person to pledge or sell any goods, chattels or effects or any personal property of a value of one hundred fifty dollars (\$150.00) or less, leased or let to him by any instrument in writing under a contract of purchase not yet fulfilled.

SECTION 11:

SALES:

No personal property purchased by any pawnbroker through his place of business shall be sold for a space of at least ten (10) working days after receipt by the Sheriff's Office of Kootenai County, Idaho, of a copy of the purchase transaction.

SECTION 12:

FORFEITURES:

It shall be the duty of every pawnbroker to allow any person accepting a loan for:

- A. Twenty dollars (\$20.00) or less, a period of thirty (30) days in which to pay before the same becomes forfeitable; and
- B. Over twenty dollars (\$20.00), a period of thirty (30) days before the same shall become forfeitable.

SECTION 13:

VIOLATION; PENALTY:

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment.

The license of any licensee shall be revoked or application for issuance of a new license or renewal of a license shall be denied when it is determined that any licensee, employee of licensee, member of a partnership or association, officer or member of the governing board or principal stockholder of a corporation or other person having direct financial interest in the business, other than as lessor, mortgagee, or vendee, has violated any provisions of this Chapter or does not meet the qualifications of a licensee provided in this Chapter.

Prior to the revocation of any license or the denial of an application for a license or renewal thereof, written notice of the reasons for such action shall be given to the applicant or licensee by the City Clerk. Such notice shall state that the applicant or licensee may request a hearing on such decision by the City Council within ten (10) days of receiving the notice. Should the applicant or licensee request the hearing within such ten (10) day period, the applicant shall be notified in writing by the City Clerk of the time and place of the hearing.

SECTION 14:

STOLEN PROPERTY; POLICE HOLD; SEIZURE:

Any article pledged or sold to a pawnbroker or secondhand dealer which is subsequently determined to have been stolen

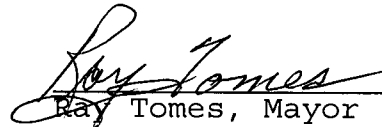
must be held by such pawnbroker or secondhand dealer for a period of sixty (60) days after being notified by the Enforcement Authority of a "Police Hold" on the article.

SECTION 15:

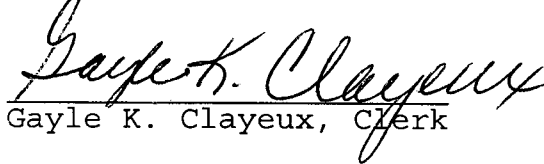
AUTHORITY TO CONFISCATE:

The enforcement Authority may seize any article determined to have been stolen after obtaining a court order for such seizure.

PASSED under suspension of the rules upon which a role call vote was taken and duly enacted an Ordinance of the City of Dalton Gardens at a regular meeting of the Mayor and City Council held on the 2nd day of January, 1997.


Ray Tomes, Mayor

ATTEST:


Gayle K. Clayeux, Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Michelle Price

being first duly sworn

upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The

Legal Notice

of which the annexed is a printed copy, was published in the regular Friday issue of said newspaper for 1 consecutive day, commencing on the 17th day of January, 1997, and ending on the 17th day of January, 1997, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

Michelle Price

Subscribed and sworn to before me this 17th day of January, 1997.

Roberta Manley

Notary Public for the State of Idaho,
residing at Coeur d'Alene, Idaho.

ROBERTA MANLEY
My commission expires 2-5-99