

**CITY OF LYNNWOOD**

**ORDINANCE NO. 2560**

*City of Lynnwood*

**JUN 02 2005**

**SCANNED**

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON RELATING TO SECONDHAND DEALERS; AND AMENDING SECTIONS 5.82.010, 5.82.020, 5.82.030, 5.82.050, 5.82.060, 5.82.070, 5.82.080, 5.82.090 OF THE LYNNWOOD MUNICIPAL CODE; ADDING SECTIONS 5.82.022, 5.82.025, 5.82.084, 5.82.085, 5.82.100 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION.

WHEREAS, secondhand dealers of personal property have been used by criminals to fence stolen property; and

WHEREAS, the City of Lynnwood regulates the business activities of secondhand dealers to minimize the possibility that stolen property will be sold or otherwise exchanged for value by secondhand dealers; and

WHEREAS, such regulation is imposed pursuant to the City's police power to protect the public health, safety and welfare,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** Section 5.82.010 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.010 Definitions.**

- A. "Secondhand dealer" means any person, firm, corporation or partnership that within the City of Lynnwood as a business engages in the purchase, sale, trade, barter, exchange or receipt of consignment sale, or otherwise transferring for value, any of the following secondhand goods or items:
1. Jewelry;
  2. Precious stones or gems;
  3. Precious metals, including coins and/or melted metals;
  4. Televisions, phonographs, stereos, radios, hi-fi sets, and other video, recording, or receiving equipment and/or consoles and photographic equipment;
  5. Any firearms as defined in LMC 10.52.050;
  6. All serial numbered items; and
  7. Computers, computer components, keyboards, printers, compact disc players, compact discs, and video arcade game cartridges;

Provided, however, that: (a) A duly franchised appliance, furniture, auto parts and accessory dealer, service stations, auctions, wrecking yards and junk dealers, and any jewelry store dealing primarily in firsthand goods, shall be exempted from the provisions of this chapter as long as

such business holds a valid and subsisting license for such designated activity in compliance with the city of Lynnwood; and (b) activities carried on by charitable, nonprofit, religious, benevolent, or fraternal associations, organizations or corporations shall be exempted from the provisions of this chapter.

- B. "Person means any individual, firm, corporation, partnership and association.
- C. "Licensee" means any secondhand dealer or secondhand dealer employee licensed under this chapter.
- D. "Chief of Police" means the Chief of Police of the City of Lynnwood or his designee.

**Section 2.** Section 5.82.020 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.020 License requirements--Fees.**

- A. It is unlawful for any person to engage in the business of secondhand dealer, as defined in LMC 5.82.010, without first procuring a license to do so, to be known as a secondhand dealer's license. The fee for such secondhand dealer's license shall be fixed in the sum of two hundred fifty dollars (\$250.00) per year.
- B. Any person having more than one place of business where secondhand dealer goods are bought, sold, traded, consigned, bartered or exchanged shall be required to procure a separate license for each and every such place of business.
- C. The license of a secondhand dealer shall include a photograph and physical description, including date of birth, sex, race, height and weight, of the licensee and the name and address of the licensee's place of business. A current photograph must be provided upon each license renewal.
- D. If the license application(s), as provided for herein, are approved, the City Clerk shall issue a license(s) to the applicant upon his executing and delivering to the City a bond to be approved by the City Attorney, in the amount of one thousand dollars, conditioned that such licensee conduct such business in compliance with all the laws of the City, State and the United States.
- E. The license of a secondhand dealer employee shall be posted in a conspicuous location in the licensee's place of business as long as the licensee is employed at the business. The license shall not be altered in any manner.

**Section 3.** A new Section 5.82.022 of the Lynnwood Municipal Code is hereby created as follows:

**5.82.022 Employment of unlicensed persons prohibited.**

It shall be unlawful for any secondhand dealer licensee to employ any person who does not have a valid secondhand dealer employee license issued by the City of Lynnwood pursuant to this chapter.

**Section 4.** A new Section 5.82.025 of the Lynnwood Municipal Code is hereby created as follows:

**5.82.025 Secondhand dealer employee's license required.**

- A. It is unlawful for any person to be employed by a secondhand dealer under this chapter without first having obtained a secondhand dealer employee license. Employees not involved in the receipt of property are exempt from the secondhand dealer employee license requirements of this section.
- B. The license of a secondhand dealer employee shall include a photograph and physical description, including date of birth, sex, race, height and weight, of the employee and the name and address of the employer's place of business.
- C. The license of a secondhand dealer employee shall be posted in a conspicuous location in the licensee's place of business as long as the licensee is employed at the business. The license shall not be altered in any manner.
- D. It is unlawful for any person to engage in the business of secondhand dealer employee, as defined in LMC 5.82.025, without first procuring a license to do so, to be known as a secondhand dealer employee license. The fee for such secondhand dealer employee's license shall be fixed in the sum of fifty dollars (\$50.00) per year.

**Section 5.** Section 5.82.030 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.030 License--Application--Investigation and issuance conditions.**

Applicants seeking a license as a secondhand dealer or secondhand dealer employee under this chapter shall:

- A. Be subject to an investigation by the Chief of Police who shall investigate the following:
  - 1. Whether the applicant has any prior criminal convictions;
  - 2. Whether any outstanding criminal violations or charges exist;
  - 3. Whether any legitimate complaints exist regarding the applicant's past business practices that would have any bearing or effect on the issuance of the license;
  - 4. Whether the person is prohibited by law from engaging in this type of activity;
  - 5. Whether the application should otherwise be disapproved based upon public safety considerations.
- B. Submit to fingerprinting by the Chief of Police and such fingerprints shall be retained in the application file, a copy of which may be forwarded to the Washington State Patrol, Identification Section, or other agency.

Within 30 days following receipt of the application from the licensing authority, the Chief of Police shall make a written recommendation on the issuance of the license to the City Clerk who may then approve the application for such license.

**Section 6.** Section 5.82.050 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.050 Recordkeeping--Information required--Dealer responsibility.**

- A. It shall be the duty of every secondhand dealer to maintain, at his place of business, a legible record written in the English language, at the time of such exchange, purchase or sale, pawn or pledge, barter or consignment, a record thereof containing the following, among others:
1. The date of the transaction;
  2. The name of the person or employee conducting the same;
  3. The name date of birth, correct current address and telephone number and the general description of the person with whom the transaction is made. The description shall include the sex, race, height and weight of such person;
  4. The name and street and house number of the owner of the property bought or exchanged;
  5. The description of the property bought, pawned or pledged, exchanged or traded, or consigned including all serial numbers and identifying marks, which, in the case of watches, shall contain the name of the maker and number of both the works and the case; and in the case of jewelry, shall contain the description of the size, color, style, manufacturer's name, type, size and number of stones, and of all letters and marks inscribed thereon; and in the case of audio or video recordings, the title of every item shall be included in the description;
  6. The price paid or the amount loaned for each item purchased or exchanged;
  7. The names, addresses, and telephone numbers of all persons witnessing the transaction;
  8. The type and identifying number of identification used by the person with whom the transaction was made, which shall consist of one of the forms of identification listed in Section 5.82.050(C)(2);
  9. The number of any pawn ticket issued;
  10. The signature of the person selling or pledging the property; and
  11. The nature of the transaction, a number identifying the transaction, the store identification as designated by the applicable law enforcement agency or the name and address of the business, and the name of the person or employee conducting the transaction, and the location of the property.
- B. It is unlawful for any secondhand dealer, his agent, employee or representative of such secondhand dealer to fail, neglect, or refuse to make entry of any material matter in this record, as required by this chapter, or to make any false entry therein, or to obliterate, destroy or remove from his place of business any such record.
- C. Any person who purchases, sells, trades, barter, exchanges, pawns or pledges, or consigns for sale, or otherwise transfers for value, any property set forth in Lynnwood Municipal Code 5.82.010 to or with a secondhand dealer shall:
1. Sign the record required to be kept by such dealer with the person's true name and shall include the person's correct, current address;
  2. Produce identification of the person, which shall include one of the following:
    - a. Driver's license or identification card of any state or Province of Canada, or "identocard" issued by the Washington state department of licensing pursuant to RCW 46.20.117;
    - b. United States active military identification;

- c. Passport; or
  - d. Merchant Marine identification card issued by the United States Coast Guard.
3. Give a thumbprint on forms acceptable to the Lynnwood Police Department.
- D. It shall be the duty of every secondhand dealer, agent, employee, or representative, to require identification as set forth in Section C and to verify the correctness and legibility of the signature of the person involved in comparing the same to the required identification, and further, to obtain a thumbprint on forms acceptable to the Lynnwood Police Department.
- E. Licensees who accept property in pawn, purchase, trade, or consignment in the course of business, shall submit the records of all such transactions created pursuant to LMC 5.82.050(A) to the Police Department within three (3) business days.
- 1. The categories of property shall be:
    - a. Guns;
    - b. Tools;
    - c. Jewelry;
    - d. Office equipment (including cell phones, pagers, etc.)
    - e. Musical instruments;
    - f. Stereo equipment;
    - g. Televisions and video recorders or playback devices
    - h. Cameras, including video cameras;
    - i. Electronic games;
    - j. Audio recordings;
    - k. Computer equipment;
    - l. Sports equipment;
    - m. Precious stones or gems;
    - n. Coins;
    - o. Scrap metal;
    - p. Video media (tapes, DVD's, etc.);
    - q. Motor vehicles;
    - r. Clothing;
    - s. Miscellaneous.
- F. It shall be the duty of every licensee to personally complete the information on the transaction form and attempt to verify its accuracy. The licensee shall not allow the person with whom the transaction is made to complete the form, except so that they may affix their thumbprint, and sign their name.
- 1. Every licensee shall make a transaction record of all property accepted regardless of whether a serial number can be found on it. When no serial number is found, the licensee must include a detailed description of the property on the transaction form. If the serial number of property brought in has obviously been altered or removed, the licensee shall obtain all the identifying information possible about the property and the person in possession of it, to include information on the vehicle they arrived in if applicable, and shall immediately notify the Police Department.

**Section 7.** Section 5.82.060 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.060 Recordkeeping--Inspection authorized when.**

All books, writing and other records of any secondhand dealer pertaining to the purchase, sale, exchange, barter, consignment, pawn or pledge or receipt of any goods, wares, merchandise or other articles or things of value shall at all reasonable times be open for inspection by the Chief of Police which inspection shall include all storage areas and all articles or things received, purchased or exchanged and stored with said secondhand dealer.

**Section 8.** Section 5.82.070 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.070 Transcript of transaction--False Reports.**

- A. It shall be the duty of every secondhand dealer to report to the Chief of Police prior to twelve noon of every third day unless such day is a Sunday or legal holiday, then the first business day thereafter, on forms approved by the City, a full, true and correct transcript of the record of all transaction had during the preceding three days. This information shall also be transmitted no less than once per week electronically to an online database approved by the Chief of Police. It shall be further the duty of such secondhand dealer, having good cause to believe that any property in his possession has previously been lost or stolen, to promptly report such facts, together with all pertinent evidence, to the Police Department, together with the name of the previous owner, if known, and the date and name or the person from who the same was received by such secondhand dealer.
- B. Every secondhand dealer, or his agent, employee or representative who fails, neglects or refuses to make such report, or who falsely reports any material to the Police Department shall be guilty of a violation of this chapter.

**Section 9.** Section 5.82.080 of the Lynnwood Municipal Code is hereby amended as follows:

**5.82.080 Holding period for certain items--exchanges with certain persons prohibited.**

- A. It is unlawful for a secondhand dealer, his agent, employee or representative, to remove any goods, articles or things purchased by him or left with him from his store or place of business until the expiration of thirty days after the same was purchased or received unless said articles or things have, within said time period, been inspected and approved for release by the Police Department.
- B. No licensee under this chapter shall receive in pledge or purchase any property from any person who is at the time of the transaction:
1. under 18 years of age; or
  2. under the influence of alcohol; or
  3. under the influence of drugs; or
  4. attempting to pledge or sell any property which the employee knows or suspects or should suspect to be stolen;
  5. from any habitual drunkard or from any person addicted to the use of a narcotic drug, or from any person who is known to be a thief or receiver of stolen goods, or from any person who he has reason to suspect or believe to be such; or

6. known to the licensee as having been convicted of burglary, robbery, theft, fraud, forgery or possession of or receiving stolen property with in the past 10 years whether the person is acting in his or her own behalf or as an agent of another. The Chief of Police shall be authorized to provide licensees a list of convicted felons from whom they may not receive or purchase property.

Notification by the Police Department given to such licensee, his agent, employee or representative, that a person has been convicted of burglary, robbery, theft, fraud, forgery, or possession of stolen property, shall constitute sufficient notice of such convictions under the provision of this chapter, and shall be prima facie evidence that the licensee, his agent, employee or representative, has due notice thereof.

**Section 10.** A new Section 5.82.084 of the Lynnwood Municipal Code is hereby created as follows:

**5.82.084 Hours and location of operations.**

It shall be unlawful for any secondhand dealer or employee licenses under this chapter to transact any business between the hours of 9:00 p.m. and 6:00 a.m. unless special written permission is given by the Chief of Police. All property sold, or taken in pawn, purchase, trade, or consignment by a licensee shall be done on the business premises and shall be subject to all applicable transaction restriction.

**Section 11.** A new Section 5.82.085 of the Lynnwood Municipal Code is hereby created as follows:

**5.82.085 Separation of property on "Police Hold."**

Every licensee shall set aside an area on his premises which allows for a clear separation of property under "Police Hold." It shall be unlawful for any licensee to place, or to knowingly allow property which has been subjected to a written or oral police hold to be placed among non-held property. Upon notification by any law enforcement officer than an item of property taken in pawn, purchase, trade, or consignment is suspected of being stolen, the licensee shall immediately, upon the officer's request, surrender the described piece of property to the law enforcement officer.

**Section 12.** Section 5.82.090 of the Lynnwood Municipal Code is hereby amended case follows:

**5.82.090 Violation deemed misdemeanor--Penalty.**

- A. Any firm, person or corporation violating by omission or commission any provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and be fined by a sum not to exceed one thousand dollars (\$1,000), or be confined to the City jail for a period up to ninety (90) days, or both such fine and imprisonment.
- B. In addition to any criminal penalty for a violation of this section, the business license of the secondhand dealer or employee who is found guilty, pleads guilty or forfeits bail for a violation of this chapter or any crime involving theft, dishonesty or moral turpitude shall be revoked for a period of one year.

C. In addition to any criminal penalty for a violation of this section, any firm, person or corporation violating by omission or commission any provisions of this chapter shall be subject to all civil enforcement provisions authorized by the Lynnwood City Code except as precluded by law.

**Section 13.** A new Section 5.82.100 of the Lynnwood Municipal Code is hereby created as follows:

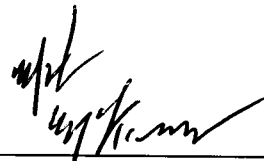
**5.82.100 Obligation to supply true and current information.**

Any person who shall offer property for pawn, purchase, trade or consignment to a pawnshop or secondhand dealer shall upon the request of the licensee, supply true and current information for the transaction record. The person offering the property shall be responsible for verifying the information on the transaction record and it shall be unlawful for any person to affix their signature to the transaction record if they know the information on the record is not true and current.

**Section 14. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase or word of this ordinance.

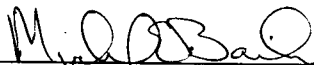
**Section 15. Effective Date.** This Ordinance shall take effect and be in full force five (5) days after its passage, approval and publication. Publication shall be by a summary publication consisting of the ordinance title.

PASSED this 9th day of May, 2005 and signed in authentication of its passage this 10th day of May, 2005.



MIKE MCKINNON, MAYOR

ATTEST:



MICHAEL BAILEY  
Director of Administrative Services

APPROVED AS TO FORM:



GREG RUBSTELLO  
Lynnwood City Attorney