

**Chapter 5-16**

**PAWNBROKERS**

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**Section 5-16-01            DEFINITIONS**

The terms as used in this Ordinance shall have the following meanings:

- A.    Chattel Mortgage. A transfer of a legal right in personal property as security for payment of money.
- B.    City. The City of Boise, Idaho.
- C.    Deposit. A delivery of goods or property to be held in trust as security for payment of money. Also includes the term bailment.
- D.    Money. Includes United States currency, money orders, certified checks, traveler's check and any other circulating medium of exchange.
- E.    Pawnbroker. A person whose business is to lend money on security of personal property deposited with him or pledged to him. A person licensed to conduct such business in the City of Boise.
- F.    Pawnshop. The room, store or place licensed as the business location for a pawnbroker in the City of Boise.
- G.    Person. Includes any natural person, individual, firm, partnership, joint venture, association, corporation, trust, or any other group acting as a unit.
- H.    Personal Property. All property subject to ownership, except real estate.
- I.    Pledge. A promise to deliver goods or property as security for payment of money.
- J.    Regulated Transaction. A business dealing conducted by a pawnbroker or designee that is regulated by this Chapter.

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(6355, Repealed & Replaced, 10/26/2004; 1922 Code, Sec. 702; 1936 Code, Sec. 2-1201; 1952 Code, Sec. 11-2101)

### **Section 5-16-02 LICENSING REGULATIONS**

All persons engaged in the business of a pawnbroker shall maintain a valid Boise City pawnbroker license.

#### **SECTION 5-16-02.01 Pawnbroker Transactions Further Defined**

The following transactions constitute the business of a pawnbroker, and any and all such transactions require a valid Boise City license:

- A. Loaning or advancing money to any person on the deposit of personal property of any kind as security for such loan or advancement, when the personal property may be repurchased by the party upon paying a sum of money;
- B. Loaning or advancing money upon a chattel mortgage on personal property, where the said property is taken into the possession of the lender as security for the advancement or loan upon an assignment or pledge of future earnings;
- C. Purchasing previously owned or used personal property on the condition that it may be repurchased by the seller within a fixed period of time for a fixed sum of money. For purpose of this Chapter, purchasing shall also include trade.

#### **SECTION 5-16-02.02 Prima Facie Evidence of Pawnbroker Business**

It shall be prima facie evidence of a pawnbroker business for any person or place of business to advertise for any of the transactions listed in 5-16-02.01 of this Chapter, regardless of any other name, term or phrase by which the business can be described.

#### **SECTION 5-16-02.03 Single Act May Constitute Pawnbroker Business**

The doing of any single act enumerated in 5-16-02.01 of this Chapter shall constitute a pawnbroker business within the meaning of this Chapter.

#### **SECTION 5-16-02.04 License Application Procedure**

- A. An application to conduct pawnbroker business shall be made to the City Clerk in the form and manner as prescribed by that office.
- B. An applicant who did not have a previous pawnbroker license within the year immediately preceding the current application shall be required to submit their fingerprints, obtained through an approved agency, with the completed application.
- C. Upon receipt of an application, the City Clerk shall cause an investigation to be made by the Boise Police Department to determine if the applicant meets the qualifications enumerated in 5-16-02.05 of this Chapter. In addition, the premises which the applicant seeks to use must be deemed suitably located for enforcement purposes having due regard to the type and character of business and traffic in the locale of the proposed business. The proposed premises must also comply with all zoning regulations of the City of Boise, and all state and local fire regulations.
- D. If upon a completed investigation the applicant is determined to be qualified for a

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pawnbroker license, and the premises are deemed suitable, the City Clerk shall tender the license upon payment of the annual non-refundable licensing fee in an amount established by the Boise City Council and listed on the most current City Clerk License Fee Schedule.

- E. The pawnbroker's license shall expire at the end of one year from the date of its issuance, unless sooner revoked, suspended or relinquished. Licenses shall not be transferable either as to person or place.
- F. The successful applicant for a pawnbroker's license shall be considered a pawnbroker for purposes of the requirements of this Chapter.

### **SECTION 5-16-02.05 License Qualifications**

- A. The applicant and the person who will be principally in charge of the business must be eighteen (18) years of age or older.
- B. The applicant must not have had a previous business license of any type denied, revoked, or suspended by the City or any other state or local agency within the five (5) years prior to the application date.
- C. The applicant must not have been convicted of a felony or theft related offense within the five (5) years prior to the application date.

### **SECTION 5-16-02.06 Denial, Suspension or Revocation**

A violation of the provisions of this Chapter may result in suspension, revocation, or denial of a pawnbroker license. The procedures, rights and responsibilities enumerated in Boise City Code Title 2, Chapter 5, sections 11 through 17 shall apply to any such denial, suspension or revocation.

(6419, Amended, 09/20/2005; 6355, Repealed & Replaced, 10/26/2004; 6148, Amended, 04/30/2002; 5102, Amended, 08/09/1988; 4932, Amended, 06/17/1986; 4829, Amended, 05/20/1985; 4796, Amended, 08/06/1984)

## **Section 5-16-03 GENERAL BUSINESS REGULATIONS**

### **SECTION 5-16-03.01 Display of License**

It shall be the duty of every person to whom a pawnbroker license is issued to prominently display such license in a conspicuous manner at all times on the premises to which the license relates.

### **SECTION 5-16-03.02 Inspection of Premises**

Upon request of the Chief of Police or designee, the pawnbroker or anyone acting on behalf of the pawnbroker shall permit the inspection of the licensed pawnshop premises and all property kept or stored therein. Any such inspection shall occur during the pawnshop's regular and usual business hours.

### **SECTION 5-16-03.03 Minors**

Minors may not enter into any transactions regulated by this Chapter.

### **SECTION 5-16-03.04 Pawnshop Employees**

No pawnbroker shall employ a person under the age of eighteen (18) to conduct transactions regulated by this Chapter. In addition, any employee conducting transactions regulated by this Chapter shall meet the qualifications enumerated in Section 5-16-02.05.

**SECTION 5-16-03.05 Intoxicated Persons**

No pawnbroker or a person acting on behalf of a pawnbroker shall enter into a transaction regulated by this Chapter with a person under the influence of drugs or alcohol.

**SECTION 5-16-03.06 Prohibited Transaction**

No pawnbroker or a person acting on behalf of the pawnbroker shall enter into any regulated transaction in which the property at interest is such property that is manufactured or produced with a serial or identification number, and the said number has been removed, altered or rendered unreadable.

**SECTION 5-16-03.07 Property Retention/Restriction on Subsequent Sales**

Property received by the pawnshop through a regulated transaction must be retained by the pawnbroker, free of any subsequent sales agreement, for thirty (30) days, except purchase transactions, which property must be retained for twenty (20) days.

(6355, Repealed & Replaced, 10/26/2004; 5215, Amended, 02/13/1990; 4829, Amended, 05/20/1985)

**Section 5-16-04 RECORDS**

**SECTION 5-16-04.01 Records Inspection**

Upon request of the Chief of Police or designee, the pawnbroker or anyone acting on behalf of the pawnbroker shall produce any records required to be kept pursuant to this Chapter and shall permit the Chief of Police or designee to examine them. Any such inspection shall occur during the pawnshop's regular and usual business hours.

**SECTION 5-16-04.02 Details of Transactions**

It shall be the duty of every pawnbroker to maintain in his place of business a permanent electronic record of the complete description of all transactions and of all parties entering into transactions regulated by this Chapter. This record shall include all voided and deleted transactions. The pawnbroker or the pawnbroker's designee shall require a person's photo identification issued by a governmental agency before conducting a transaction with that same person. The following information must be included in the required records.

- A. Name, address, telephone number, and store number of the pawnshop in which the transaction took place; and the name of the employee conducting the transaction.
- B. Full name, complete current residential address, current phone number, date of birth, race, sex, height, weight, hair and eye color of the person or persons with whom the transaction is made.
- C. Type, including state or governmental agency of issue, and identifying number of the personal photo identification used by the person with whom the transaction is made.
- D. Nature and date of the transaction and an identification number for the transaction.
- E. Complete description of the property purchased, pledged, traded or co-signed including as applicable: brand name, make, model, serial number, and owner applied number or other identifying marks. Jewelry shall be described with the type, weight, color, number and description of stones, style, size or length, any engraving, and whether it is considered a man's woman's or child's piece. CDs, DVDs, videos, tapes, records, etc., shall be described with any owner identification marks and the category of movie or music to which it belongs. The title and artist should also be documented if practicable.

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Vehicles shall be described with the VIN, make, model and color. Firearms shall be described with the make, brand, model number, serial number, caliber, type, barrel length, finish.

### **SECTION 5-16-04.03 Transaction Document**

Every transaction shall be memorialized in writing and signed by the person with whom the transaction is made. This transaction document shall include a digitalized photo or thumbprint of the person with whom the transaction is made, along with the date of the transaction, the term of the loan or repurchase period, and the date on which the loan is due and payable or the repurchase option expires. All parties to the transaction are entitled to receive a copy of this document, and the original shall remain on file at the pawnshop for a minimum of one (1) year.

### **SECTION 5-16-04.04 Records Transmittal**

All records described in this Chapter shall be electronically stored in addition to paper records. These electronic records shall be transmitted by noon the next business day to the Boise Police Department in a method and fashion approved by the Chief of Police or his designee.

### **SECTION 5-16-04.05 Records Retention**

All records described in this Chapter shall be retained by the pawnbroker at the licensed pawnshop for a minimum of one (1) year; except that records pertaining to firearms transactions shall be kept for a minimum of twenty (20) years pursuant to federal regulations.  
(6355, Repealed & Replaced, 10/26/2004; 3373, Added, 12/11/1972)

## **Section 5-16-05 STOLEN PROPERTY**

- A. Upon verbal notification from the Chief of Police or designee that the pawnshop or pawnbroker has received allegedly stolen or lost property, the pawnbroker shall not sell or permit to be redeemed the property in question for a period of ten (10) working days, pending written notification of the property status. If written notification of the same is received within the ten (10) day period, or if written notification is received in lieu of a verbal notification, the property shall be held separate from other property, safe from alteration or damage, and with a clearly identifiable marking as to the hold status. It shall remain in this condition, without being sold or redeemed, for a period of forty-five (45) days from the date of written notification. The pawnbroker shall notify the police of the impending release date no later than ten (10) days prior to the expiration of the hold period to gain approval to release the hold. At such time, the police may renew this hold for an additional forty-five (45) day period by responding in writing with such request. The police may cancel this hold at any time by issuing written notification to the pawnbroker. The pawnbroker shall not sell or allow to be redeemed any property held in this fashion without notification by the police that the property may be released.
- B. It is the responsibility of every pawnbroker to notify police whenever they have reason to believe they or the pawnshop are in receipt of property that may have been lost or stolen. This notification shall include the documents on file pertaining to the transaction which resulted in the receipt of said property. The property shall not be sold or allowed to be redeemed until the police have notified the pawnshop that the property may be released.
- C. The police shall provide written notification to pawnshops when property can be released which is being held pursuant to these provisions. This notification shall be made as soon as practical after a finding that the held property is not stolen or lost, or other circumstances exist that lead police to allow the release.

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- D. Any property determined to be stolen or lost shall be transferred to the custody of the Boise Police Department upon request. The police shall retain custody of the property pending a court determination of the rightful owner. This may include a criminal conviction for the theft of the property in which the rightful owner has taken part in the prosecution of the crime.
- E. The rightful owner of stolen or lost property shall not be liable to the pawnshop for any amounts expended with respects to the stolen or lost property.
- F. A pawnbroker shall not be responsible for returning stolen or lost property directly to a rightful owner.

(6355, Repealed & Replaced, 10/26/2004; 1922 Code, Sec. 706; 1936 Code, Sec. 2-1205; 1952 Code, Sec. 11-2105)

### **Section 5-16-06 ENFORCEMENT**

#### **SECTION 5-16-06.01 Unlawful Acts**

The following acts by a pawnbroker or any person acting on behalf of the pawnbroker, including the employees and agents of a pawnbroker, will constitute a violation of this Chapter:

- A. Failure to make a record of any transaction as described in this Chapter.
- B. Falsifying any official record or entry on an official record required to be kept pursuant to this Chapter.
- C. Obliterating, destroying, or removing from the place of business any records required to be kept pursuant to this Chapter.
- D. Refusing to allow the Chief of Police or designee to inspect the business premises, or any books, records or other goods located or required to be located at the place of business, during regular and usual business hours.
- E. Transmittal of any false record to the police.
- F. Failure to report the possession of property that may be lost or stolen.
- G. Removal or allowing removal of property from the business premises within thirty (30) days after the receipt of said property, or twenty (20) days if the property was obtained through a purchase, unless redeemed by the rightful owner.
- H. Receipt of property from a person under the age of 18.
- I. Receipt of property from a known thief or receiver of stolen property, or known associates of such, whether the person is acting on their own behalf or as the agent of another.
- J. Employment of an person not meeting the qualifications of this Chapter.
- K. Any other violation of the specific provisions of this Chapter not specifically enumerated above.

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### **SECTION 5-16-06.02 Pawnbroker Responsibility**

The holder of any pawnbroker's license shall be responsible for the compliance of all the provisions of this Chapter by the agents and employees of the pawnbroker. Any violations by such persons may be used in the revocation or denial of a pawnbroker's license.

### **SECTION 5-16-06.03 Additional Violations**

- A. It shall be a violation for any person to furnish false information to a pawnbroker if the provided information is required to be recorded pursuant to this Chapter.
- B. It shall be a violation for any person to pledge or sell any property to a pawnbroker or the pawnbroker's employees or agents, knowing the property is leased or let to him or another by any instrument in writing under a contract of purchase which is not yet fulfilled.

### **SECTION 5-16-06.04 Penalty**

Any person violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment in the County jail for not more than ninety (90) days or by both such fine and imprisonment.

(6355, Repealed & Replaced, 10/26/2004; 3791, Added, 01/12/1976)