



Item: Ordinance 3125- Amendment to Title 5, Chapter 3, Article 3 of City Code Pertaining to Pawnshops

From: City Attorney's Office

Initiated By: Sara R. Sexe, City Attorney

Presented By: Sara R. Sexe, City Attorney

Action Requested: Conduct Public Hearing on Ordinance 3125

Public Hearing:

1. Mayor conducts public hearing, calling three times each for proponents and opponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motion:

1. Commissioner moves:
"I move the City Commission (adopt/deny) Ordinance 3125"
 2. Mayor calls for a second, discussion, and calls for the vote.
-

Staff Recommendation: Staff recommends the City Commission adopt Ordinance 3125, amending Title 5, Chapter 3, Article 3 of the Official Code of the City of Great Falls.

Background:

The Great Falls City Commission adopted Ordinance 3117, which revised portions of OCCGF 5.3.3.300 *et seq.* After such revisions were made, representatives of the Great Falls Police Department, and representatives of Pawnbrokers, Second Hand, Valuable Article and Recycling businesses had meetings on March 13, April 3, April 16, and May 8, 2014 to arrive at recommendations as to mutually agreeable exceptions and exclusions for the Chief of Police's consideration. Afterward, Chief of Police David Bowen approved Exceptions and Exclusions on June 4, 2014, which are attached to this report. As a result of the meetings with affected businesses' representatives, two modifications to Ordinance 3117 are being recommended: 1) changing the time limit items have to be held from 14 to 7 days, and 2) increasing the fine from \$50.00 to \$100.00. The representatives participating in the meetings, along with the Great Falls Police Department representatives, agree with and recommend the changes. At the August 19,

2014, the City Commission approved Ordinance 3125 on first reading and set a public hearing for September 2, 2014.

Significant Impacts:

Recommended changes to the existing ordinance will provide the Police Department additional enforcement ability through increased fines, while requiring the businesses to hold items for a shorter period of time.

Attachments:

Ordinance 3125

Exhibit A- Amendments to Title 5, Chapter 3, Article 3.

June 4, 2014 Exceptions and Exclusions policy from Chief of Police Bowen

ORDINANCE 3125

**AN ORDINANCE AMENDING TITLE 5, CHAPTER 3,
ARTICLE 3 OF THE OFFICIAL CODE OF THE CITY OF
GREAT FALLS (OCCGF) PERTAINING TO PAWNSHOPS
AND SECONDHAND STORES**

* * * * *

WHEREAS, the City Commission adopted Ordinance 3117 on March 4, 2014, to allow for the proper tracking of pawned, second hand items or valuable articles, to avoid the substantial risk that illegally obtained items may be sold to innocent purchasers; and

WHEREAS, pawnshops, second hand stores and valuable article dealers are potential recipients of illegally obtained items in the course of their business; and

WHEREAS, the City of Great Falls endeavors to improve its registering and tracking of items obtained by pawnshops, second hand stores and valuable article dealers, to reduce the risk of the resale of illegally obtained items; and

WHEREAS, subsequent to the adoption of Ordinance 3117, representatives of the Great Falls Police Department, and representatives of Pawnbrokers, Second Hand, Valuable Article and Recycling businesses met several times and arrived at recommendations as to mutually agreeable exceptions and exclusions. Said representatives also agreed to amend Ordinance 3117 as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

- Section 1. That Title 5, Chapter 3, Article 3, Sections 320 and 330 of the OCCGF be amended as depicted in Exhibit "A" attached hereto, which removes any language indicated by a strike-out and adds language which is bolded;
- Section 2. This ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

APPROVED by the City Commission on first reading August 19, 2014.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading September 2, 2014.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3125 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

Exhibit "A"

Article 3 – PAWNSHOPS, SECONDHAND STORES AND VALUABLE ARTICLE DEALERS

Sections:

[5.3.3.300 - Definitions.](#)

[5.3.3.310 - Register required.](#)

[5.3.3.320 – Duration Articles Must be Held.](#)

[5.3.3.330 – Violation – Penalty.](#)

[5.3.3.340 - Extensions–Exclusions.](#)

5.3.3.300 - Definitions.

When used in this section, the following terms apply:

“Customer” means any person or entity who deposits, pledges, sells, trades, barter, consigns, or exchanges personal property, secondhand goods, wares, merchandise or other valuable things to an Operator as set forth in this section.

The term “Operator” includes the following:

"Pawnbroker" means any person or entity who loans money on deposit or pledge of personal property or any valuable thing, or who deals in the purchasing of personal property or valuable things on condition of selling the same back at a stipulated price, whether he does the same for himself or as an agent of some person or firm or corporation, who by any means, method or device loans money for personal property when the same is deposited for security or is deposited for any other purpose.

(Ord. 3117, 2014; Ord. 2675, 1995; Prior code 5-11-1).

"Secondhand Dealer" or "Valuable Article Dealer," means any person or entity who, within the City, as a business, engages in the purchase, sale, trade, barter, consignment, recycling or exchange of secondhand goods, wares or merchandise; or any person who keeps any store, shop, room or place where secondhand goods, wares or merchandise of any kind or description, are bought, sold, traded, bartered, consigned, recycled or exchanged is defined as a secondhand dealer or valuable article dealer within the meaning of this chapter; provided, however, that this chapter shall not apply to bona fide trade or turn-ins of secondhand goods, wares or merchandise or other goods where no cash is transferred or paid by the merchant.

(Ord. 3117, 2014; Ord. 2675, 1995; Prior code 5-11-1).

5.3.3.310 - Register required.

Any Operator who engages in the activities set forth in 5.3.3.300 shall keep a legible written register or record of all property purchased or taken under that section, along with:

- A description of each article, including, but not limited to, identification number, serial number, model number, brand name or other identification marks on such article; and a description by weight and design of precious and semi-precious metals or stones.
- The Customer's name and date of birth.
- The Customer's current address.
- The Customer's identification from one of the following:
 - A valid state identification card;
 - A valid state driver's license;
 - A military identification card;
 - A valid passport;
 - An alien registration card; or
 - An official identification document lawfully issued by a state or federal government.

Records shall be retained for a period of 2 years from the initial transaction. Such register shall be subject to examination by the Police Department at any and all times.

On a periodic basis, no later than 5:00 PM on Friday of each week's transactions, every operator shall file, upload or record all registers or records of transactions, to an electronic data base as designated by the chief of police or agent of the police department. If the transactions have not been entered into electronic data base according to this section, the police department shall stop any further transactions by the Operator, until the Operator is in compliance.

(Ord. 3117, 2014; Ord. 2675, 1995; Prior code 5-11-3).

5.3.3.320 - Duration Articles Must be Held.

For ~~14~~ **7** days following the electronic filing of the register or record of a transaction into the police department's designated data base under this section, Operators shall not dispose of the property purchased or taken, alter the property from the form in which it was received, or transfer the property to another location.

(Ord. 3125, 2014; Ord. 3117, 2014)

5.3.3.330 –Violation – Penalty.

Each Operator who violates this chapter shall be fined ~~\$50.00~~ **100.00** for each item received by Operator, that the Customer illegally obtained, or did not have authority to deposit, pledge, sell, trade, barter, consign, or exchange, or otherwise provide to Operator. This fine will be waived if Operator has properly and timely reported the item or items into the police data base. All fines collected under this section will be directed to the police department for maintenance of the designated data base.

(Ord. 3125, 2014; Ord. 3117, 2014)

5.3.3.340 - Extensions–Exclusions.

The chief of police may, for good cause shown, grant an Operator a written extension to the deadlines herein, or an exclusion from these requirements based upon the type or value of property.

(Ord. 3117, 2014)

CITY OF GREAT FALLS

Great Falls Police Department

112 1st Street South
Great Falls, MT 59401
Phone: (406) 771-1180
Fax: (406) 453-8141



Exceptions and Exclusions to the Official Code of the City of Great Falls (OCCGF) 5.3.3.300 *et seq.*, as directed by the Chief of Police and posted at

<http://www.greatfallsmt.net/police>

Pawnbrokers, Secondhand dealers and Valuable Article dealers are excluded from uploading information into the selected database per City of Great Falls Municipal Code Section 5, Article 3, Ordinance 3117 if the dealer meets one or more of the following criteria:

- The item purchased by the dealer is under \$50.00 in value, except if the items are purchased in a quantity of 25 items or more, such as 25 or more DVDs, CD's etc. Jewelry (unless scrap) shall be photographed and the photographs maintained by the purchaser for a period of one year and/or the photo uploaded to the database.
- The item is used adult or used children's apparel.
- The seller is a known customer of the dealer and had contracted with the business prior to the property being presented for sale such as, estate sale purchases. This exception does not include over-the-counter contracted purchases, which must comply with the OCCGF.
- The property was obtained through a bidding process through a reputable, licensed auction house.
- The property purchased has been abandoned according to Montana Code Annotated.
- The property is brokered or consigned with the business.

Second Hand or Valuable Article Dealers who primarily recycle secondhand goods (Recyclers) are excluded from uploading information into the selected database pursuant to the terms of OCCGF 5.3.3.300 if one or more of the following criteria are met by the Recycler:

- The item purchased is under \$50.00 in value.
- If the seller is a known customer of the Recycler and had contracted with the business prior to the property being presented for sale.
- Items purchased by the Recycler which cannot be returned or identified by the owner are excluded from the hold requirement.

GFPD will provide Leadsonline stickers which shall be placed in all applicable stores or businesses. Language will be posted with the exceptions and exclusions indicating "All information uploaded to Leadsonline will be utilized for law enforcement purposes only in the discovery and recovery of stolen property."

Signed on the 5 Day of JUNE, 2014.

A handwritten signature in blue ink that reads "Dave Bowen".

Dave Bowen, Chief of Police