

**ORDINANCE 1347**

**AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, ADDING A NEW SECTION 5.37 TO THE PAYETTE CITY CODE WHICH SECTION REGULATES PRECIOUS METAL AND GEM DEALERS; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAYETTE, IDAHO:

Section 1. A new Chapter 5.37 is added to Title 5 of the Payette City Code, which section shall read as follows:

**5.37 PRECIOUS METAL AND GEM DEALERS**

**5.37.010: DEFINITIONS:**

**5.37.020: LICENSE REQUIRED:**

**5.37.030: APPLICATION:**

**5.37.040: INVESTIGATION:**

**5.37.050: DENIAL OR REVOCATION OF LICENSE:**

**5.37.060: REGULATIONS:**

**5.37.070: INVESTIGATION OF APPLICANT:**

**5.37.080: ADEQUATE IDENTIFICATION:**

**5.37.090: TRANSACTION DESCRIPTION RECORD:**

**5.37.010: DEFINITIONS:**

a. "Jewelry" means any tangible article of personal property ordinarily wearable on the person consisting in whole or in part of gold, silver, platinum, aluminum, lead, brass, copper, pewter, alexandrite, diamonds, emeralds, garnets, opals, rubies, pearls, jade, and such other metals, minerals or gems customarily regarded as precious or semiprecious.

b. "Member of the general public" means individuals, partnerships, corporations or other associations.

c. "Precious metal and gem dealer" means any person, corporation, partnership or association which engages in any transaction of buying, selling or receiving secondhand jewelry, sterling silverware or gold or silver coins or bullion to or from the public within the City of Payette.

"Precious metal and gem dealer" does not include a business which smelts, refines, assays or manufactures precious metals, gems or valuable articles and has no retail operation open to the public.

d. "Secondhand" means previously owned by a member of the general public immediately prior to the transaction at hand. It does not mean previously owned by a wholesaler, retailer or by a secondhand dealer licensed.

**5.37.020: LICENSE REQUIRED:**

a. No person, corporation, partnership or association shall engage in the business of dealing in, selling and exchanging secondhand jewelry, sterling silverware or gold and silver coins or bullion without having first obtained a license as provided in this section.

b. The requirements of this section do not apply to the following:

1. Transactions at occasional garage or yard sales, estate sales, coin, gem, or antique or stamp shows, conventions or auctions.

2. Transactions involving the purchase of grindings, filing, slag, sweeps, scraps or dust from an industrial manufacturer, dental laboratory, dentist or agent thereof.

3. Operations between dealers licensed under this section.

4. Transactions at financial institutions licensed or regulated by the state of Idaho or U.S. government.

**5.37.030: APPLICATION:**

Application for a precious metal and gem dealer's license shall be made to the city clerk on forms furnished by the city clerk, and shall contain the following:

- A. Name, place and date of birth and street residence of the applicant.
- B. The trade name, address of the business and name and address of the owner of the premises.
- C. A statement as to whether within the preceding 10 years the applicant has been convicted of any crime, petty misdemeanor or municipal ordinance violation relating to theft, damage or trespass property or operation of a business, the nature and date of the offense and the penalty assessed.
- D. Whether the applicant is a natural person, corporation or partnership.
  - 1. If the applicant is a corporation, the state of incorporation and the names and addresses of all officers and directors.
  - 2. If the applicant is a partnership, the names and addresses of all partners.
- E. The name of the manager or proprietor of the business.
- F. Such other reasonable and pertinent information as the city clerk may from time to time require.

**5.37.040: INVESTIGATION:**

The city clerk shall refer the application to the chief of police, who shall make a criminal history background investigation of the applicant. Upon completion, the chief of police, or his representative, shall forward the results of the investigation to the city clerk. If, as a result of the investigation, the applicant is not found to have committed any of the acts requiring denial as listed below, the city clerk shall, upon payment of the prescribed fee, and approval of the city council, issue the license to the applicant. The city clerk shall deny the applicant the license if the applicant has:

- A. Committed any act consisting of fraud or misrepresentation;
- B. Committed any act which, if committed by a licensee, would be grounds for suspension or revocation of a license;
- C. Within the previous ten (10) years, been convicted of a misdemeanor or felony directly relating to his or her fitness to engage in the occupation of peddler, solicitor or street vendor and including, but not limited to, those misdemeanors and felonies involving moral turpitude, fraud or misrepresentation;
- D. Been charged with a misdemeanor or felony of the type defined in subsection C of this section and disposition of that charge is still pending;
- E. Ever been charged of any crime involving sexual abuse against a child;
- F. Been refused a license under the provisions of this chapter; provided, however, that any applicant denied a license under the provisions of this chapter may reapply if and when the reasons for denial no longer exist; and
- G. Made any false or misleading statements in the application.

**5.37.050: DENIAL OR REVOCATION OF LICENSE:**

The city shall have the authority to deny, revoke or temporarily suspend any license requested or issued in accordance with this chapter for any of the following reasons:

- A. Fraud, misrepresentation or false statements contained in the application;
- B. Fraud or misrepresentation or false statement made in the course of conducting the business or trade;
- C. Any violation of this chapter;
- D. Conviction of any crime or misdemeanor involving moral turpitude;

E. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public

F. No precious metal and gem dealer's license shall be granted to an individual, partnership or a corporate applicant, unless the individual applicant, each of the partners, or the corporate agent has been a resident of Idaho continuously for at least 90 days prior to the date of the application.

**5.37.060: REGULATIONS:**

A. Altered or Obliterated Serial Number: No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.

B. Identification: No precious metal and gem dealer shall purchase or exchange any property without first securing adequate identification from the seller as stipulated in 5.37.080.

C. Recordkeeping: Every licensed precious metal and gem dealer shall keep a transaction description record as stipulated in 5.37.090 for any property purchased or exchanged. A record of all transactions shall be delivered to the chief of police or the chief's designee at least one time each week and at other times when requested by the Chief or the Chief's designee.

D. Transaction Record Reporting: Every dealer shall report each transaction description record as required in 5.37.090.

E. Every item purchased or exchanged by a licensed precious metal and gem dealer shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.

F. Holding Period: Every property exchanged or purchased by a precious metal and gem dealer, except gold coins or bullion, or silver coins or bullion, shall be kept on the dealer's premises separate and apart from any other property, unchanged and unaltered from the form it was received for 10 days after a report is submitted to chief of police or the chief's designee.

G. Additional Holding Period: The chief of police may, at the chief's sole discretion, cause any property exchanged or purchased, which the police chief has reason to believe was not exchanged or purchased by the lawful owner, to be held for an additional holding period deemed reasonable by the chief of police after the elapse of the initial 10-day holding period for identification by the lawful owner.

H. Minors: No precious metal and gem dealer shall have any business dealings as a precious metal and gem dealer with any person under 18 years of age, unless that person is with the parent or guardian, or the dealer obtains or has on file a written consent signed in the dealer's presence by the parent or guardian granting permission for that person to transact business with the dealer.

I. Stolen Goods: Every precious metal and gem dealer shall report to the police any item presented to the precious metal and gem dealer during the course of business the precious metal and gem dealer has reason to believe was stolen, either by the person presenting the item or another party.

**5.37.070: PENALTY:**

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

**5.37.080: ADEQUATE IDENTIFICATION:**

A. Adequate identification obtained by precious metal and gem dealers shall be limited to one of the following current and unexpired forms of identification:

1. A State of Idaho identification card.
2. A valid Idaho motor vehicle operator's license.
3. A valid motor vehicle operator's license, containing a picture, issued by another state.
4. A military identification card.
5. A valid passport.
6. An alien registration card.

B. No person pawning, pledging, exchanging, consigning, leaving for deposit or selling any property with any licensee shall give a false or fictitious name, present false or altered identification documents, give a false date of birth or give a false address of residence or telephone number to the licensee gathering

information for the transaction description record.

**5.37.090: TRANSACTION DESCRIPTION RECORD:**

1. Transaction description records shall be kept either as computer files or in a written document approved by the chief of police, or the chief's designee. Written transaction description record documents shall be legible and in ink, and no entry made shall be erased, obliterated or defaced. Licensed precious metal and gem dealers may keep transaction description records as sequentially numbered invoices. Blank or voided invoices kept by precious metal and gem dealers as transaction description records shall be kept in sequence. Computerized files, written documents and invoices of transaction description records shall be open to inspection by the chief of police, or the chief's designee, at any reasonable time. Computerized files, written documents and invoices of transaction description records shall be maintained and retained for one year.

2. Transaction description records shall include:

- a. The date and time of the transaction.
- b. A complete description in English of the item or property pawned, pledged, consigned, exchanged or purchased including when applicable, but not limited to, any trademark, identification number, serial number, model number, brand name, any engraved number, word or initial, a description of any settings, a description by weight and design of the property, other identification marks and inscriptions of a personal nature, whether the property is a male or female item or property.
- c. The amount of money loaned or paid.
- d. The name, address and date of birth of the person pawning, pledging, exchanging, consigning or selling the item or property.
- e. Identification number from and a photocopy of the identification obtained as stipulated in 5.37.080.
- f. A signed, written declaration of ownership from the person pawning, pledging, exchanging, consigning or selling the item or property, separate and apart from any computerized records maintained and on a form approved by the chief of police, or the chief's designee, stating whether the person owns the item(s) or property, how long the person has owned the item or property, whether the person or another found the item or property, and if found, the details of its finding.

3. Photographs.

- a. Each transaction description shall include a color photograph or color video recording of:
  1. Each customer pawning, pledging, consigning, exchanging or selling an item or property.
  2. Every item or property pawned, pledged, consigned, exchanged or sold without a unique serial or identification number permanently engraved or affixed.
- b. Photographs shall be at least 2 inches square.

The major portion of the photograph or the video recording of persons shall include an identifiable facial image. Property photographed or video recorded shall be accurately depicted. The licensee shall inform the person that he or she is being photographed or video recorded by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee shall keep the photograph or video recording for 3 months.

4. The person pawning, pledging, consigning, exchanging or selling the item or property shall electronically sign the computerized record, or sign an alternate form approved by the chief of police, or the chief's designee, if computerized records are maintained, or sign the written document transaction descriptions record or the invoice.

5. Transaction records shall include any other reasonable information the chief of police may from time to time require.

**Section 2.** This Ordinance may be published in summary form as permitted by Idaho Code.

**Section 3.** This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

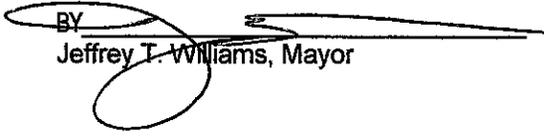
**Section 4.** Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

**Section 5.** Any violation of this ordinance shall be a misdemeanor punishable in accordance with the misdemeanor statutes of the State of Idaho.

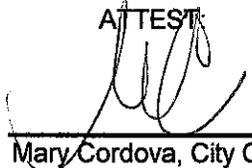
**Section 6.** If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 5<sup>th</sup> day of July, 2011.

CITY OF PAYETTE, IDAHO

BY   
Jeffrey T. Williams, Mayor

ATTEST

  
Mary Cordova, City Clerk