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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3313

AN ORDINANCE providing that owners of stolen property which is pawned needn't pay the pawn fee in order to secure the return of their property; that a pawnbroker who refuses to return pawned stolen property to its owner without payment of the pawn fee commits larceny by conversion; that necessary law enforcement information be recorded by brokers and dealers, and providing for police holds and seizures of stolen property; amending Section 2 and 3 of Ordinance No. 2891, Bellevue City Code Sections 5.32.060 and 5.32.70; amending Section 1 (part) of Ordinance No. 768, Bellevue City Code Section 5.32.140; and adding new sections 5.32.085 and 5.32.135 to the Bellevue City Code.

WHEREAS, victims of theft may discover their property has been pawned and seek its return; and

WHEREAS, pawn shop owners have been known to refuse to return the pawned stolen property to the rightful owner unless the pawn fee is first paid; and

WHEREAS, the Washington State Supreme Court has held that a pawnbroker's refusal to return pawned stolen property to its rightful owner without payment of the pawn fee is larceny by conversion, Seattle v. Shepard, 93 Wn.2d 861 (1980); and

WHEREAS, such decision should be incorporated into the City Code to provide notice to all affected citizens and to specify the City's intent to enforce the decision by enacting the following provisions; and

WHEREAS, operational experience has shown that the pawnshop ordinance needs further amendments to incorporate efficient and meaningful record keeping and other provisions to enhance enforcement thereof; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. City of Bellevue Ordinance No. 2891 Section 2 and Bellevue City Code Section 5.32.060 are each hereby amended to read as follows:

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5.32.060 Required records.

It shall be the duty of every pawnbroker to maintain at his or her place of business a book or other permanent record, in which shall be legibly printed or lettered, by the pawnbroker or his/her employee, in the English language, at the time of such loan, consignment, purchase or sale, a record thereof containing those items listed below; and it shall be the duty of every dealer to maintain at his or her place of business a book or other permanent record, in which shall be legibly printed or lettered, by the dealer or his/her employee, in the English language, at the time of such purchase and/or consignment, a record thereof containing those items listed below:

A. The date of transaction;

B. The name of the person or employee conducting the same;

C. The name (first, middle and last), date of birth, street, house number, and city of residence, and the general description of the person with whom the transaction is taking place;

D. The name, street, house number, and city of residence of the owner of the property bought or received in pledge;

E. A detailed description of the property bought or received in pledge, and/or consignment, including brand name, serial and model numbers, pattern or type, engravings, size, color, markings, shape, and any peculiarity likely to identify the property. The description of jewelry shall include the type of metal employed, all letters and marks inscribed thereon, and the weight and size;

F. The price paid or the amount loaned;

G. Type and/or identification numbers of acceptable identification presented at time of transaction. Acceptable identification shall include but not be limited to Washington State driver's license, Washington State Identification Card or any identification card or papers issued by or recognized by the U.S. Government or any state or territory.

The types and number of pieces of acceptable identification which must be presented by a customer to the pawnbroker or dealer at the time of each transaction may vary according to the following criteria: If the person seeking to pledge, pawn, sell or exchange property through a pawnbroker or

dealer displays: (1) two pieces of identification containing the person's photograph, no further identification shall be required to be displayed and recorded in order to constitute acceptable identification; (2) one piece of identification containing the persons photograph, two additional pieces of identification must be displayed and recorded in order to constitute acceptable identification; (3) no identification containing the person's photograph, a minimum of four pieces of identification must be displayed and recorded in order to constitute acceptable identification;

H. The number of any pawn tickets issued therefor;

The information required above shall be kept on forms provided by the City as set forth in Section 5.32.070 below;

It is unlawful for any pawnbroker or dealer and every clerk, agent or employee of such pawnbroker or dealer to fail, neglect or refuse to make entry in any material matter in his or her record, as required by this section, or to make any false entry therein, or to obliterate, destroy or remove such record from his or her place of business.

Section 2. City of Bellevue Ordinance No. 2891 Section 3 and Bellevue City Code Section 5.32.070 are each hereby amended to read as follows:

5.32.070 Transcript of pawnbroker's or dealer's record to be furnished police.

It shall be the duty of every pawnbroker or dealer, by mail at the end of each business day, to report to the chief of police or his or her designee on forms furnished by the City, a true, correct and complete transcript or record of all transactions had during the preceding day. It shall also be the duty of any pawnbroker or dealer having good cause to believe any property in his or her possession has been previously lost or stolen, to report such fact to the chief of police, together with the name of the owner, if known, the date of the transaction, and the name and description of the person from whom the same was received by such pawnbroker or dealer. Transient dealers shall also report to the chief of police or his or her designee daily.

Section 3. A new Section 5.32.085 is hereby added to the Bellevue City Code to read as follows:

5.32.085 Police Seizures, Police Holds, Duties and Obligations.

In addition to retention of property required by this Code, any police officer, having probable cause to believe that any personal property taken by a pawnbroker or dealer by way of pledge, pawn or exchange in the possession of a pawnbroker or dealer is stolen, may seize such item at any time. In the event of such a seizure, the pawnbroker or dealer shall be entitled to a written receipt for the item from the Bellevue Police Department.

In lieu of immediate seizure, a police officer may place a "hold" upon the property by making an entry upon the permanent record required by Section 5.32.060, indicating that such item is stolen property. The pawnbroker or dealer shall then:

(1) Tag or specifically identify the item; and

(2) Hold it in place on the business premises of the pawnbroker or dealer to which police officers shall have access at any time during regular business hours; and

(3) Keep the item safe from alteration, loss, damage, or commingling with other goods.

No pawnbroker or dealer shall dispose of any item subject to a police hold in any manner; Provided, that items subject to a police hold shall be surrendered to the Chief of Police upon request, or in compliance with a subpoena signed by a prosecuting attorney, or in compliance with an order of a court of competent jurisdiction; or as directed in a written release signed by the Chief of Police.

Section 4. A new Section 5.32.135 is hereby added to the Bellevue City Code to read as follows:

5.32.135 Return of pawned property to its rightful owner - Violation - Penalty.

A. A pawnbroker or dealer, who obtains property of another in pawn, pledge or purchase, which property is pawned, pledged or sold to the pawnbroker or dealer without the knowledge, consent or authority of the true and rightful owner of said property, is guilty of theft by conversion if, upon demand of the true and rightful owner of said property, the pawnbroker or dealer refuses to return the pawned, pledged or sold property in the brokers or dealers possession to its true and rightful owner unless the owner pays the pawn fee, a security fee or other form of compensation.

B. It shall not be an affirmative defense that the pawnbroker or dealer obtained the property under a claim of title made in good faith.

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C. Theft by conversion is a gross misdemeanor.

Section 5. City of Bellevue Ordinance No. 768 Section 1 (part) and Bellevue City Code Section 5.32.140 are each hereby amended to read as follows:

5.32.140 Violation - Penalty.

Any person, firm or corporation violating any of the provisions of this chapter for which a specific penalty is not otherwise set forth herein shall, upon conviction thereof, be fined in any sum not exceeding three hundred fifty dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment; and in addition thereto, the license of such person firm or corporation may be revoked or suspended.

Section 6. This ordinance shall take effect and be in force 30 days after enactment by the City Council.

PASSED by the City Council this 21st day of December, 1983, and signed in authentication of its passage this 21st day of December, 1983.

(SEAL)

Roy A. Ferguson

Roy A. Ferguson, Mayor

Approved as to form:

Linda M. Youngs, City Attorney

Scott C. McKee

Scott C. McKee, Assistant City Attorney

Attest:

Marie K. O'Connell

Marie K. O'Connell, City Clerk

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