

TOWN OF PLYMOUTH

PAWNBROKERS AND SECONDHAND DEALERS ORDINANCE

BE IT ORDAINED, BY THE SELECTMEN OF THE TOWN OF PLYMOUTH AS FOLLOWS:

A. PREAMBLE:

This chapter is adopted by the Board of Selectmen for the purpose of regulating transactions in items which have been historically shown to be subject to theft and illicit transfer. The function of the regulations contained in this chapter is to discourage such theft and illicit transfer from occurring within the Town of Plymouth and to mandate the keeping of certain records which will assist victims of theft in recovering their stolen property and which will assist law enforcement authorities in the apprehension of perpetrators of theft and detection of regulated parties intentionally transacting business in stolen property. This chapter has been enacted pursuant to the authority granted to the Town of Plymouth by New Hampshire Revised Statutes Annotated Chapters 322 and 398.

B. DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

COMMODITY METALS

Any metal traded on the commodity market that sells for \$0.50 per pound or greater, including, but not limited to, gold, silver, platinum, brass, copper, copper alloy, aluminum, stainless steel, rhodium, palladium, titanium and magnesium.

PAWNBROKER

Any person, firm, trust, partnership, limited partnership, limited liability partnership, limited liability company, or corporation whose business includes any transaction wherein there is the lending of money secured by taking possession of Property, as defined herein, with interest charged thereon, with the right to sell the Property if it is not redeemed. A person, firm, trust, partnership, limited partnership, limited liability partnership, limited liability company, or corporation shall be deemed to be a pawnbroker whether the transaction takes the form of a loan by the pawnbroker secured by the property or a sale to the pawnbroker with the right to repurchase within a specified period of time. The Town hereby incorporates by reference all regulations contained in NH RSA chapter 398. All other regulations contained in the Chapter herein shall be in addition to all regulations contained in New Hampshire Revised Statutes Annotated Chapters 398.

PROPERTY

Anything of value, including but not limited to antiques, collectables, memorabilia, dishware, household goods and appliances, glassware, home stereo equipment, jewelry, watches, clocks, diamonds, precious stones or gems, semiprecious stones and gems, gold, silver, platinum, other precious metals or commodity metals, musical instruments and equipment, cameras, furs, fur coats or other kinds of wearing apparel, televisions, DVD players, videocassette recorders, CDs, DVDs, video games, video game systems, tablet computers, cellular phones, consumer electronics, and any other electronic equipment, battery-operated equipment, tools, computers and computer equipment, firearms, vehicles, auto stereo systems, auto accessories and office and store fixtures and related equipment. Property shall not include secondhand furniture, clothing or books.

SECONDHAND DEALER

Any person, firm, trust, partnership, limited partnership, limited liability partnership, limited liability company, or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with secondhand articles and Property, as defined herein. The Town hereby incorporates by reference all regulations contained in New Hampshire Revised Statutes Annotated Chapter 322. All other regulations contained in this Chapter herein shall be in addition to all regulations contained in New Hampshire Revised Statutes Annotated Chapter 322

However, the definition of "secondhand dealer" shall not apply to any person, firm, trust partnership, limited partnership, limited liability partnership, limited liability company, or corporation who does not purchase secondhand articles directly from the general public.

C. LICENSING AUTHORITY

The Board of Selectmen may license such persons as they deem, in their sole discretion, suitable to be pawnbrokers or secondhand dealers within the town. All licenses so granted shall contain a clause that the person so licensed agrees to abide by and be subject to all provisions of this chapter as it may be from time to time amended.

D. LICENSE REQUIRED; APPLICATION REQUIREMENTS

No person, firm, trust, partnership limited partnership, limited liability partnership, limited liability company, or corporation shall operate, conduct or engage in business as a pawnbroker or secondhand dealer unless such person, firm, trust, partnership, limited partnership, limited liability partnership, limited liability company, or corporation obtains a license from the Town of Plymouth, through the Board of Selectmen in accordance with NH RSA 398:5 and RSA 322:1, respectively. Applications for licenses for pawnbrokers or secondhand dealers shall be made in writing to the Town of Plymouth on forms provided by

the Town of Plymouth. An application fee of \$50.00 shall be submitted to the Town Clerk prior to the issuance of the license.

a. Applications:

1. Applications shall contain the following information:
 - A. Name and address of the applicant;
 - B. At least two persons of good character who may be used as references for the applicant;
 - C. The name of one person, not living at the same address as the applicant, who will always know where to locate the applicant should the applicant move;
 - D. Places of residence of the applicant for the past five years;
 - E. Location of previous businesses of the applicant over the past five years;
 - F. A release from the applicant authorizing the Town to conduct a criminal background check on the applicant.

2. If the applicant is a partnership, the information required under Subsection (a)(1) (a) through (f) shall be furnished for each partner. If the applicant is a limited partnership, the information required in Subsection (a)(1) (a) through (e) shall be furnished for the general partners and for each limited partner. If the applicant is a limited liability partnership, the information required in Subsection (a)(1) (A) through (F) shall be furnished for each partner within the limited liability partnership. If the applicant is a limited liability company, the information required in Subsection (a)(1) (A) through (F) shall be furnished for each member if member-managed and for each member and each non-member manager, if manager-managed. If the applicant is a corporation, the information shall be furnished for each officer and for each shareholder owning 20% or more of the corporate stock.

b. The Town shall require and receive, at the applicants expense, a criminal background check on each applicant for a license and each person required to submit information under Subsection (a)(2) hereunder from the State of New Hampshire and all other States in which such persons have resided within the past five (5) years, said background check to be required for every other license renewal.

c. Investigation of applicant. All applications shall be submitted by the Town Clerk to the Chief of Police, who shall cause an investigation to be made of the fitness of the applicant and the applicant's employees to carry on the business of pawnbroker or secondhand dealer. The Chief of Police shall then report his or her findings to the Board of Selectmen.

d. Issuance of License: Approval or denial of a license application will be at the discretion of the Board of Selectmen by a majority vote of the Board after a review all application materials. No such license shall be issued to any:

1. person who has been convicted of receiving stolen property or who or which has repeatedly violated ordinances or statutes of the license in the State of New Hampshire or any other state or territory.
 2. firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation which has been convicted of receiving stolen property or who or which has repeatedly violated ordinances or statutes of the license in the State of New Hampshire or any other state or territory;
 3. firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation whose partners, members, managers, or shareholders have been convicted of receiving stolen property or have repeatedly violated ordinances or statutes of the license in the State of New Hampshire or any other state or territory.
- e. Location. The license shall be issued for a specific location within the Town of Plymouth and is not transferable to any other person, firm, trust, partnership, limited partnership, limited liability partnership, limited liability company, or corporation.
- d. Display of license. Licensees shall display their current license in a conspicuous place within the business where it may be readily viewed by the general public.
- e. Expiration; revocation. Upon approval, a numbered license shall be issued and continue in full force until April 1 of each year unless revoked prior to this date by the Board of Selectmen at any time after notice to the licensee and hearing on the charges preferred.
- f. Renewal. Once per year, on or before March 31, all persons, firms, partnerships, limited partnership, limited liability partnership, limited liability company, or corporations that operate, conduct or engage in business as a secondhand dealer or a pawnbroker will be responsible for renewing their license information with the Town of Plymouth. This renewal will be completed in writing on forms provided by the Town of Plymouth. A renewal fee of \$50.00 shall be submitted yearly with the renewal application. Failure to comply with this requirement may result in suspension or revocation of said license.

E. EMPLOYEES; CONFORMANCE WITH RULES AND REGULATIONS

Employees of a licensed establishment are not required to obtain a license in addition to that of the establishment; however, the proprietor of such licensed establishment will notify the Chief of Police or his/her designee of the name and pertinent information regarding such employees within 24 hours of their hire. The holder of the license shall provide the information required by Subsection (a)(1) (A) – (F) for each employee and new hire. Each employee shall agree to conform to all rules and regulations governing such businesses now in effect or as subsequently enacted.

F. TRANSACTION RECORDS

- a. Every pawnbroker and secondhand dealer shall keep and maintain a complete written record of the acquisition of all Property, either by purchase, exchange, or through any other transaction under this Ordinance. This record, which must be kept on file for seven years, shall be in the English language and shall include:
 1. a full, accurate, and detailed description, including serial numbers, of the item or items purchased, pawned or pledged;
 2. The full notation of the date (month day and year) and time of such transaction;
 3. the amount of money loaned and the rate of interest to be paid on said loans; and
 4. the full name (last, first, middle initial), address, date of birth, and social security number/identification number of the seller or pledger.

The pledging or selling party shall sign the transaction record.

- b. Every pawnbroker and secondhand dealer shall require every seller or pledger of items to produce, in person, a valid photographic identification issued by a United States federal or state government agency. The identification used must include the seller's or pledger's full name, date of birth, and current street address. The identification must have been issued in the past five years. The type of identification used shall be noted on the transaction records. At no time shall a pawnbroker or secondhand dealer accept another person's photographic identification for any transaction. The pawnbroker or secondhand dealer shall attach a photocopy of the identification shown to the transaction record.
- c. No pawnbroker or secondhand dealer shall transact business with anyone under 16 years of age, except when said minor is accompanied by a parent or legal guardian who shall sign the transaction record.
- d. All Property purchased, pledged, or otherwise acquired by the pawnbroker or secondhand dealer shall be photographed with a digital camera or digital image scanner. A color digital image shall be appended to the transaction record and shall be saved in a manner to allow it to be electronically sent to the Plymouth Police Department as part of the transaction record.
- e. All pawn or secondhand dealer stores shall be equipped with electronic monitoring/recording equipment that records all public entrances to the building and all transactions being conducted. The equipment shall consist of video or digital imaging of a sufficient resolution and clarity to be easily monitored and reviewed on playback. All stores must keep an archive of video or digital imaging for 30 days.
- f. In the case of a pawnbroker, a ticket or coupon shall be given to the pledger in all cases where any aforementioned Property is received in pawn or otherwise for the security of any loan, transfer, service, undertaking, or advantage given to the pledger. This ticket or coupon shall state the name and address of said pawnbroker, a description of the property or article received in pawn, the monetary value loaned, and the rate of interest established. At the time of making the loan, an identification number shall be attached to the article, and this identification number shall be recorded on the ticket or coupon.

G. HOLDING PERIOD FOR PURCHASES AND PAWNS

- a. Except as otherwise governed by this Section G(c), relating to Property deposited in Pawn, no article or Property obtained by the pawnbroker or secondhand dealer shall be disposed of, altered, or changed within thirty days after the purchase, acquisition, or control thereof, except with the written consent of the Chief of Police, but in no case within forty-eight hours after said transaction.
- b. Property, including jewelry, shall be maintained in the condition in which it was received, and shall not be altered, damaged, or destroyed during the holding period for any purpose. Property must be maintained at the dealer's licensed location in the Town during the holding period.
- c. Pawnbrokers shall retain all nonperishable Property deposited in pawn for at least four months and shall retain perishable Property for at least one month after the date of deposit for said article(s), unless said Property is redeemed by the depositing party. .
- d. In the event that the Plymouth Police Department or another law enforcement agency determines that an article is required as evidence in a criminal investigation or prosecution, an authorized agent of the Plymouth Police Department shall seize such evidence pursuant to applicable criminal procedure. The pawnbroker or secondhand dealer shall be issued a receipt for all seized Property.
- e. The pawnbroker or secondhand dealer shall not transfer, alter, or change any Property upon being notified by the Plymouth Police Department that said Property may be the subject of a criminal investigation.
- f. Pursuant to NHRSA 595-A:6, the Plymouth Police Department or an authorized agent thereof shall retain seized articles under the court's discretion as long as necessary to permit the article to be used as evidence. At the conclusion of the court proceedings or closure of a criminal investigation, the Plymouth Police Department shall notify, by regular mail to the last known address, the original owner as well as the pawnbroker or secondhand dealer and any other person who may have a lawful interest in the property; said property shall be released in 30 calendar days to the original owner if no other claim is placed on the property.
- g. In the case of the original owner being the recipient of returned articles, the Plymouth Police Department shall request in the case of a prosecution, when applicable, that a court consider restitution in the amount paid for the property by the pawnbroker or secondhand dealer as a portion of sentencing in the criminal case. In such a circumstance, the property would be returned to the original owner, as noted above, and cash restitution equal to the amount paid would be requested for, and if granted provided to, the pawnbroker or secondhand dealer.

H. REPORTS OF TRANSACTIONS

- a. Pawnbrokers and secondhand dealers shall electronically file documentation of all transaction records to the Chief of Police or his/her designee within 24 hours of the end of said dealer's business day in which the transaction occurred. If during any week, a pawnbroker or secondhand dealer has not purchased any items, he or she shall make a report of such fact to the Chief of Police or his/her designee on or before 10:00 a.m. of the first business day of the following week.
- b. In the event that the pawnbroker or secondhand dealer sells, trades, or otherwise transfers any Property purchased, pledged, or acquired by the pawnbroker or secondhand dealer, the pawnbroker or secondhand dealer shall obtain and record the all information required in Section F from the party receiving the Property. Said information shall become part of the transaction record and shall be retained by the pawnbroker or secondhand dealer in accordance with this Ordinance.
- c. All property purchased, pledged, or otherwise acquired by the pawnbroker or secondhand dealer shall be photographed with a digital camera or digital image scanner. A color digital image shall be saved in a manner to allow it to be electronically sent to the Plymouth Police Department as part of the transaction record. The complete transaction record shall be submitted on one standard-size page. The transaction record shall include a color image of the identification used by the seller, information documented by the dealer, and a clear color image of the item(s) purchased. Miscellaneous amounts of jewelry will be separated and not photographed in one aggregate pile. The image shall be sent electronically in a PDF or JPG format. Every pawnbroker and secondhand dealer shall use the transaction record form prescribed by the Plymouth Police Department.

I. INSPECTION OF RECORDS AND PREMISES

Pawnbrokers and secondhand dealers shall retain each original transaction record in his or her possession for a period of seven years. All transaction records, along with the respective Property, shall be kept or stored in or upon the licensed premises. The licensed premises and all transaction records and Property contained therein may be inspected at any time by a duly authorized police officer.

J. VIOLATIONS AND PENALTIES

- a. Any violation of this chapter shall be punishable by a fine not exceeding \$100 per day.
- b. The Board of Selectmen may, independently or upon recommendation from the Chief of Police, suspend or revoke said license for any violation of this chapter or reasons it deems to be in the best interest of the Town, after a hearing. Offenses which may result in the suspension or revocation of said license include, but are not limited to, the following:

- (1) Violation of any provision of this chapter; or

(2) Violation of any statute of the State of New Hampshire or any other state or territory of the United States relating to the licensed business.

c. Notice of the suspension or revocation will be made, in writing, to the owner(s) of the business within five business days of said hearing.

K. SEVERABILITY

The provisions of this chapter shall be severable, and if any phrase, clause, sentence or provision of these regulations shall, for any reason, be held invalid or unconstitutional, the validity of the remainder of these regulations shall not be affected thereby.

Passed and approved by the Board of Selectmen of the Town of Plymouth, New Hampshire

_____ day of _____, 2017

Signed this _____ day of _____, 20__

Board of Selectmen
Plymouth, New Hampshire