

TOWN OF WINDHAM
PAWNBROKERS AND SECONDHAND DEALERS
LICENSING ORDINANCE

Adopted

Chapter 174 of the Code of the Town of Windham, known as the Pawnbrokers and Secondhand Dealers Licensing Ordinance, is hereby enacted.

§ 174-1. Purpose and Authority

This ordinance is enacted pursuant to authority granted under 30-A M.R.S. §§ 3001, 3961, 3964-A and 3972. The purpose of this Ordinance is to set forth procedures and standards for the operation and licensure of Pawnbrokers and Secondhand Dealers in order to protect the welfare and citizens of the Town of Windham.

§ 174-2. Definitions

As used in this Ordinance, the terms below shall be defined as indicated.

Pawn Transaction shall mean the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

Pawnbroker shall mean a person who engages in pawn transactions.

Secondhand Dealer shall mean a person engaged in the business of selling, exchanging, dealing in, or dealing with secondhand articles, including but not limited to, electronics, firearms, opera glasses, telescopes, watches, clocks, diamonds or other precious stones, gold, silver, platinum or other precious metals, jewelry, furs, fur coats or other kinds of wearing apparel, antique furniture, furnishings, glass and dishes, musical instruments, radios, used cars, tires, automobile accessories, office and store fixtures and their connections.

Tangible Personal Property shall include motor vehicles but does not include documents evidencing title to motor vehicles. The term also does not include checks, drafts or similar instruments or real estate.

§ 174-3. License Requirement and Application

- A. No person shall conduct business as a pawnbroker or secondhand dealer without first obtaining a license pursuant to this article.
- B. The Town Clerk or designee shall issue a license to conduct business as a pawnbroker or secondhand dealer to any person over the age of 21 who demonstrates that they have no record of criminal convictions for crimes of moral turpitude, dishonesty or fraud and possesses adequate financial resources as defined in state law. A license shall be obtained by the owner or duly authorized agent of the premises where the business is to be located by submitting a completed application to the Town Clerk's office.

1. The application shall identify all the owners, officers, partners, or managers of the applicant's business, with their places of residence at the time of the application and a statement as to the nature, date, and location of any criminal convictions as to those persons. Background investigations are required of all applicants before a license shall be issued. A copy of each on-site owner's, officer's, partner's, and manager's driver's license shall be submitted with all new applications in order to conduct a proper background investigation.
 2. The applicant shall be responsible for paying the license application fee.
 3. Upon receipt of a completed application, the Town Clerk shall immediately forward a copy of the same to the Code Enforcement Officer, the Fire-Rescue Chief and the Chief of Police or their designated assistants or agents, who shall investigate the application and/or premises for compliance with applicable laws, zoning, building and life safety codes.
- C. Municipal officers shall be presented applications for new pawnbroker or secondhand dealer licenses for their approval but will not require a public hearing. Completed applications when presented to the municipal officers shall bear the recommendation for approval or disapproval of the Code Enforcement Officer, the Fire-Rescue Chief and the Chief of Police or their designated assistants or agents.
- D. Annual renewal licenses shall be granted by the Town Clerk based upon the results of a background check and the positive recommendation of the Code Enforcement Officer, the Fire-Rescue Chief and the Chief of Police or their designated assistants or agents.
- E. Once issued, licenses shall be posted in a conspicuous place at the licensed premise.

§ 174-4. Right of Inspection of Licensed Premises

The applicant, his/her agents and employees shall allow access by the Code Enforcement Officer, Fire Chief and Chief of Police or their designated assistants or agents for the purpose of inspecting the premises to ensure compliance with the provisions of this chapter.

§ 174-5. License Transferability

No license issued pursuant to the provisions of this chapter shall thereafter be transferred to another person or firm. Upon the termination or transfer of a business or occupation, the successor shall make new application for a permit or license. No part of a license fee shall be refunded in the event the licensed activity ceases prior to the expiration of the license. Licensees must notify the Town Clerk's office when they are relocating to a new location or changing to a different vehicle (mobile secondhand dealers only) or automated collection device i.e. cellphone collection kiosk, etc. An inspection by the Code Enforcement Officer and Fire Inspector of the new business location or vehicle or device shall be required prior to the transfer of such license.

§ 174-6. License Denial

A license shall be denied or revoked if an applicant has a disqualifying criminal conviction or otherwise fails to comply with the requirements of § 174-3 and §174-4.

- A. The holder of any license granted pursuant to this chapter, who violates any provision of this chapter, shall be notified by the Town Clerk or inspecting officers, in writing, of the violation and shall be given a reasonable period of time to correct the same.
- B. The Town Clerk may consider any recommendation by the Code Enforcement Officer, Fire Chief or Chief of Police to suspend or deny a license based upon a failure to comply with all applicable code and ordinance requirements.
- C. A licensee may, at any time after the suspension or denial of his/her license, make an application, in writing, for the reinstatement or issuance of his/her license to the Town Clerk, with affirmation and evidence that the condition for which the suspension or denial was imposed has been corrected.
- D. An applicant may appeal the decision of the Town Clerk to deny or revoke a license to the Town Council. Such decisions if made by the Town Council are appealable only to the Superior Court.

§174-7. License Expiration Date

All licenses shall expire annually. All licensees who have not submitted their application for renewal of their license by the expiration date of such license will be required to submit a new license application and be subject to all regulations that apply to a new license, including inspections, background investigations, fees and municipal officer approval. The business shall not be operated between expiration of an existing license and granting of a new one, unless a properly completed application was submitted prior to the expiration date.

§ 174-8. Fixed Establishment

Any person or business meeting the definition of a pawnbroker shall have a fixed principal establishment in the town within the Commercial-I (C-1) or Commercial-II (C-2) zone, similar to other banking establishments.

§ 174-9. Required Recordkeeping

Every pawnbroker or secondhand dealer, at the time of receiving any article pawned, pledged or received in exchange, or any other article or consideration, shall give the consumer a signed, written disclosure satisfying the requirements of 30-A M.R.S.A. §3962, as may be amended from time to time.

- A. Before recording the information required by this section, a pawnbroker or secondhand dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item which confirms the person's identification by date of birth and by physical description.
- B. Every pawnbroker shall maintain records in which the pawnbroker shall enter:
 - 1. The date, duration, amount, periodic rate of interest and annual percentage rate of every loan that is made;
 - 2. The finance charge, due dates for payment and the total payment needed to redeem or repurchase the pawned property;

3. An accurate account and description of the property pawned together with the correct and exact time when such articles were pawned or purchased, and the amount the item was sold for;
 4. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of 31 days at the same rate of interest upon request in writing or in person; and
 5. The name, address, date of birth of the buyer or seller.
- C. Every secondhand dealer shall maintain records in which the secondhand dealer shall enter and retain in a bound ledger or binder:
1. The date of purchase;
 2. The seller's name and address; and
 3. A brief description of the property, including any identification numbers.
- D. The pawnbroker shall, at the time of the transaction, deliver to the consumer a signed, written disclosure complying with the truth-in-lending provisions of the Maine Consumer Credit Code, Title 9-A, Article 8-A, containing the items required by 30-A M.R.S.A. §3962 (1) and the name and address of the pawnbroker.
- E. The pawnbroker and secondhand dealer shall allow the municipal officers to inspect these records upon request at all reasonable times.

§174-10. Retention of articles purchased.

Articles purchased by anyone licensed in accordance with the provisions of this article, excepting pawnbrokers, shall be retained by such licensee in the same condition in which they were obtained and in an accessible place where such articles can be examined and inspected for at least 15 days before they are disposed of.

No pawnbroker shall sell, destroy or alter any property pawned until it has remained in his possession for the duration of time as required by this article, unless forfeited in writing by the customer.