

## **Ordinance - Secondhand Dealers & Pawnbrokers**

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### **Purpose**

The intent of this chapter is to establish a system which fairly and impartially regulates retail transactions of a pawn or secondhand nature for the purpose of identifying stolen property unintentionally received by the regulated parties and detecting regulated parties intentionally transacting business in stolen property.

This chapter has been enacted pursuant to the authority granted to the Town of Litchfield by New Hampshire RSA 322 and RSA 398.

### **Definitions**

**PAWNBROKER** -- Any person, firm, partnership, or corporation whose business includes any transactions wherein there is the lending of money secured by taking possession of jewelry, wearing apparel, household goods or other personal property, with interest charged thereon, with the right to sell the personal property if it is not redeemed. A person, firm, partnership, 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. Pawnbrokers are regulated according to New Hampshire RSA Chapter 398.

**SECONDHAND DEALER** -- Any person, firm, partnership, or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in, or dealing with secondhand articles, including but not limited to jewelry, watches, clocks, diamonds or other precious stones or gems, gold, silver, platinum or other precious metals, musical instruments and equipment, cameras, furs, fur coats or other kinds of wearing apparel, collectibles and antiques (excepting furniture and books), home and auto stereo equipment, televisions, video cassette recorders and other electronic equipment, tools, computers and computer equipment, firearms, auto accessories, and office and store fixtures and related equipment. Secondhand dealers are regulated according to New Hampshire RSA Chapter 322.

### **Exclusions**

Mail order transactions and retail stores that exchange or provide cash or credit for returned articles are excluded from this chapter. Flea markets and yard sales are also excluded and may be governed by the Town of Litchfield through a separate town ordinance.

### **Licensing Requirements and Procedures**

- A. No person, firm, partnership, or corporation shall operate, conduct, or engage in business as a secondhand dealer or pawnbroker unless such person, firm, partnership, or corporation obtains a license from the Town of Litchfield through the Board of Selectmen in accordance with New Hampshire RSA 322:1 and 398:5.
- B. Applications for licenses for a secondhand dealer or pawnbroker shall be made, in writing, to the Town of Litchfield on forms provided by the Town of Litchfield . An application fee of \$250

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shall be submitted with the application. Evidence of any other special state or federal licensing related to the secondhand dealer or pawnbroker shall be provided with the application for local license.

(1) The Chief of Police shall cause an investigation to be made of the fitness of the applicant to engage in said business as a secondhand dealer or pawnbroker. The investigation will include a criminal record check and a fingerprint submission to include a nationwide database inquiry. This will include any person who is employed by the pawn shop or secondhand dealer shop. In most cases, this investigation shall be completed within 14 days; additional time may be required if requesting reports from an out of state or federal agency. Upon conclusion of this investigation, the Chief of Police shall report his findings and forward a recommendation on the application to the Board of Selectmen, for disposition of the license.

(2) No such license shall be issued to any person, firm, partnership or corporation who or which has been convicted of receiving stolen property or who or which has violated ordinances or statutes of the State of New Hampshire or any other state or territory related to a business license in the State of New Hampshire or any other state or territory. Prior to the approval of a license, the applicant shall have no pending criminal court actions that would cause revocation of such license; to include parole, probation or pending felony charges. Approval or denial of a license application will be by a majority vote by the Board of Selectmen after a review of all application materials.

C. Upon approval, a numbered license shall be issued and continue in force until April 1 of each year, unless revoked prior to this date.

(1) It shall be the duty of the licensee to display the current license in a conspicuous place within the business where it may be readily observed by the public.

(2) The license shall be issued for a specific location and is not transferable to any other person, firm, partnership, or corporation.

(3) Once per year, on or before April 1, all persons, firms, partnerships, or corporations that operate, conduct, or engage in business as a secondhand dealer or pawnbroker will be responsible for renewing their license information with the Town of Litchfield. This renewal will be completed, in writing, on forms provided by the Town of Litchfield. A renewal fee of \$250 shall be submitted yearly with the renewal application. Failure to comply with this requirement may result in suspension or revocation of said license.

### **List of employees: conformance with rules and regulations**

A. All secondhand dealers and pawnbrokers must submit a list of personnel that will be employed by the business. In addition to this requirement, it shall be the responsibility of the

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business owner to notify the Litchfield Police Department whenever a new employee is hired by the business. In the case of a new employee, the same information will be requested as per the original application for license.

B. Each applicant shall agree to conform to all rules and regulations governing such businesses now in effect or as subsequently enacted.

**Prohibited transactions**

A. No pawnbroker, nor any person employed by a pawnbroker, shall directly or indirectly receive in pawn or as security for any loan, transfer, service, undertaking or advantage any aforementioned article from any minor in accordance with New Hampshire RSA 398:2.

B. No secondhand dealer or pawnbroker, nor any person employed by a secondhand dealer or pawnbroker, shall directly or indirectly purchase any aforementioned article from any person under the age of 16 years old, knowing or having reason to believe him or her to be such, except when said minor is accompanied by a parent or legal guardian, who shall sign the transaction record in person before said dealer in accordance with New Hampshire RSA 322:3.

C. No secondhand dealer or pawnbroker, nor any person employed by a secondhand dealer or pawnbroker, shall receive in pawn, or as security for any loan, transfer, service, undertaking, or advantage, any property of value from any person in a visible state of intoxication from liquors, drugs, or otherwise or any article of clothing removed from the person at the place of business in accordance with New Hampshire RSA 398:2.

**Records**

A. Every secondhand dealer or pawnbroker, upon the acquisition of any aforementioned article, shall prepare transaction records upon forms provided by the Town of Litchfield . This form shall state the full name, identification number, date of birth, address and other descriptive information of the seller, date of the transaction, a full, accurate, and detailed description (to include make, model, and serial number) of each article, and the monetary amount given for the article.

B. Positive identification in the form of a photographic identification shall be required for all transactions and the type of identification used shall be noted on the dealer's records. This record shall be legibly signed by the seller in person. At no time will the pawnbroker or secondhand dealer accept another person's photographic identification for any acquisition. The secondhand dealer or pawnbroker shall attach a photocopy of the identification shown to the transaction record. A photocopy or digital picture (in the format specified by the Litchfield Police Department) of the article, if required by the nature or the size of the item, will also be attached to this form. Jewelry, watches, diamonds or other precious stones or gems, gold, silver, platinum

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or other precious metals or items by virtue of their size shall be photocopied by use of a document copier. All pawn or secondhand deal 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 for 30 days.

C. One copy of all transaction records shall be delivered to the Litchfield Police Department within 24 hours of the end of said dealer's business day in which the transaction took place. The Litchfield Police Department may substitute an electronic record system in place of paper.

D. In the case of a pawnbroker, a ticket or coupon shall be given to the pledgor in all cases where any aforementioned article is received in pawn or otherwise for the security of any loan, transfer, service, undertaking, or advantage given to the pledgor. 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.

E. Every secondhand dealer and pawnbroker shall retain the original copies of acquisition records in his possession, which, together with any article which is kept or stored in or upon such premises, may be inspected at any time by a duly authorized police officer during regular business hours. All reasonable efforts will be made to avoid disrupting the normal course of business.

F. All original transaction records shall be kept by said secondhand dealer or pawnbroker for a minimum of five years for purposes of this chapter. State and federal regulations may require longer retention (i.e., Department of Labor, Internal Revenue Service, etc.)

**Resale, disposal and alteration of articles**

No article purchased shall be sold, encumbered by sales contract, or otherwise disposed of or altered in its appearance, within twenty-one days of purchase, except with the written permission of the Chief of Police, or designee, but in no case within 24 hours after the time of purchase. Pawnbrokers shall retain pledged nonperishable articles for at least four months after date of deposit and perishable articles for one month after date of deposit.

**Removal of articles by police officers**

A. If the Litchfield Police Department determines that an article is needed for evidence in a criminal investigation, an authorized agent of the Department shall seize that evidence pursuant

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to applicable criminal procedures. The secondhand dealer or pawnbroker shall be issued a receipt for the article.

B. Pursuant to New Hampshire RSA 595-A:6, the Litchfield Police Department, or an authorized agent of the Litchfield Police Department, shall keep seized articles under the court's direction as long as necessary to permit the article to be used as evidence. At the conclusion of all court proceedings or closure of the police investigation, the Litchfield Police Department shall notify, by regular mail at the last known address, the original owner, the secondhand dealer or pawnbroker, and any other known person who may have a lawful interest that the property will be released in 30 calendar days to the original owner, if no other claim is placed on the property.

### Violations and penalties

A. Any violation of this chapter shall be punishable by a fine of not less than \$25 nor more than \$100 for each offense and/or subject to criminal prosecution under existing New Hampshire laws.

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 community, 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. Time limits of the suspension or revocation shall be left to the discretion of the Board of Selectmen. Notice of the suspension or revocation will be made, in writing, to the owner(s) of the business

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