

Introduced: 05/19/2014
Second Read/Pub Hrg: 06/02/2014
Adopted: 06/02/2014

ORDINANCE 2014-02

AN AMENDMENT TO THE MUNICIPAL CODE RELATING TO THE REGULATION OF SECONDHAND DEALERS AND PAWNBROKERS

WHEREAS there is a need to provide for the safety and security of town residents when transacting business in the community;

WHEREAS there is a need to regulate retail transactions of a pawn or secondhand nature for the purposes of identifying stolen property unintentionally received and detection of parties intentionally transacting business in stolen property;

WHEREAS the Londonderry Town Council addressed these concerns by enacting Ordinance 2008-14, which regulates secondhand dealers and pawnbrokers;

WHEREAS the Town continually reviews its fee and permit schedule to reflect the costs of managing these regulations; and

WHEREAS RSA 41:9-a requires the Town Council to conduct a public hearing on the Establishment of Fees;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Municipal Code of the Town of Londonderry, Title IV – Public Health, Safety and Welfare, Chapter XII – Secondhand Dealers and Pawnbrokers, is hereby amended as attached.

Tom Dolan
Town Council Chairman

A TRUE COPY ATTEST:

Town Seal

Sharon Farrell - Town Clerk
06/02/14

CHAPTER XII – SECONDHAND DEALERS AND PAWNBROKERS

SECTION I AUTHORITY

This ordinance **was originally** enacted on October 17, 2005, pursuant to the authority granted the Town of Londonderry by RSA 322 (Junk Dealers) and RSA 398 (Pawnbrokers and Moneylenders). The **revised** ordinance shall become effective upon its adoption.

SECTION II FINDINGS

The intent of this ordinance is to establish a system that fairly and impartially regulates retail transactions of a pawn or second hand nature for the purpose of:

- a. Identifying stolen property unintentionally received by the regulated parties, and
- b. Detection of regulated parties intentionally transacting business in stolen property.

SECTION III DEFINITIONS

Secondhand dealer shall mean any person, firm, partnership, corporation or other entity whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with secondhand articles, including acting as an auction broker. These articles include, but are not limited to, jewelry, watches, diamonds, or other precious stones or gems, gold, silver, platinum, or other precious metals, musical instruments and associated equipment, sports equipment, cameras, furs, small collectible antiques, home and auto audio and video equipment, televisions, VCR's, DVD players, home and commercial video games, tools, computers and associated equipment, firearms, **scrap metal, vehicle parts**, auto accessories and collectibles (the "Property").

Pawnbroker shall mean any person, firm, partnership, corporation or other entity whose business deals in transactions where there is the lending of money secured by taking possession of any Property with interest charged thereon, shall be regulated according to RSA 398.

An auction broker shall mean any person, firm, partnership, corporation or other entity that takes any Property and sells it for a client through the process of bidding, keeping for themselves a portion of the profit. The term auction shall also include the bidding process that takes place through electronic media, e.g. "ebay."

CHAPTER XII – SECONDHAND DEALERS AND PAWNBROKERS (Cont'd.)

SECTION IV COMPLIANCE REQUIRED:

- A. No person firm, partnership, corporation or other entity shall operate, conduct or engage in business as a secondhand dealer/pawnbroker/auction broker unless such person, firm, partnership, or corporation shall first obtain a license from the Town of Londonderry.

1. Exclusions

- a. **Consignment Shops.** These shops operate under the business model where owners of property retain ownership until a sale is completed or contract with the store is fulfilled. No property is bought from the public, by the business. As a result of the business model, no funds are immediately exchanged between the property owner (Seller) and the buyer. Funds are only exchanged through the Consignment Shop.
- b. **Group Shops.** These shops operate under a business model where many small businesses work under one umbrella shop. No businesses operating in the shop buy property directly from the public and all sales must go through umbrella shop before funds are dispersed. As a result of the business model, no funds are immediately exchanged between the property owner (Seller) and the buyer.
- B. Applications for new licenses and renewal licenses for a secondhand dealer/pawnbroker/auction broker shall be made in writing to the Town of Londonderry Building Department on forms provided for this purpose by the Town of Londonderry. Each license shall be issued on a location specific basis to suitable applicants. A one time application fee of fifty dollars (\$50.00) shall be due upon application.
- C. Upon approval, a license shall be issued and continue in force, unless sooner revoked. Said license may not be assigned or transferred and will be clearly and prominently displayed. The annual fee for such license **renewal** shall be twenty-five dollars (\$25.00) due annually **July 1 and will remain in force for one year, unless sooner revoked**. The annual fee may be amended by the Town Council from time to time.

CHAPTER XII – SECONDHAND DEALERS AND PAWNBROKERS (Con't.)

SECTION V PURCHASING FROM MINORS

No secondhand dealer/pawnbroker/**auction broker**, nor any person employed by a secondhand dealer/pawnbroker/auction broker shall directly or indirectly purchase any property from anyone under 18 years of age, 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.

SECTION VI – RECORDS, INSPECTIONS, RE-SALE, CHANGES, ALTERATIONS

- A. Every secondhand dealer/pawnbroker/**auction broker**, upon the acquisition of any property, shall prepare transaction records **in a format determined and** approved by the Town, which shall include, inter alia, the full name, an identification number and address of the seller/**pawner**, the date of the transaction, and a full, accurate and detailed description (to include make, model and serial number) of the property, the amount paid for each item, and the name of the employee receiving same. For items sold through an electronic auction medium, the transaction records shall also include the full name, telephone number, credit card number, the amount paid and the full address of the person or company that purchased any property by means of the auction. **Transaction records shall also include photographs of the seller/pawner, the seller/pawner's identification and the articles being sold/pawned.**

- 1. Secondhand dealers, who deal solely in scrap metal, vehicle parts and auto accessories, shall also be required to report the make, model, color, registration number and the state of registration of any vehicle used by the seller and include the information in the transaction record.**

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**SECTION VI – RECORDS, INSPECTIONS, RE-SALE, CHANGES, ALTERATIONS
(Cont'd.)**

- B. This information should be uploaded to the designated electronic reporting system within twenty-four (24) hours of the end of said secondhand dealer/pawnbroker/ auction broker's business day.**
- C. Positive identification in the form of valid government photo identification, with an expiration date, shall be required of the seller/pawner of any property. The type of identification used shall be noted on the dealer's records and a photograph of the identification shall be attached to the transaction record.**
- D. A secondhand dealer/pawnbroker/auction broker shall retain copies of all purchase records or auction contracts for any property obtained by him/her/it, which, together with any article listed therein, may be inspected at any time by any duly authorized police officers during regular business hours while making all reasonable efforts not to disrupt the normal course of business.**
- E. All transaction records shall be kept by said secondhand dealer/pawnbroker/auction broker for a minimum of two (2) years.**
- F. No article shall be sold, encumbered by sales contract, made available for auction, altered in its appearance, or otherwise disposed of by a secondhand dealer/auction broker for a period of 21 days after its initial purchase or intake unless the secondhand dealer/auction broker is granted permission in writing from the Londonderry Police Department. Such special permission shall be no less than 48 hours from the time of purchase or intake. Pawnbrokers shall retain non-perishable articles for 60 days and perishable articles for 30 days.**

1. Exclusions

- a. Secondhand dealers, who deal solely in scrap metal, vehicle parts and auto accessories, shall be exempt from the hold period but shall be subject to the added reporting requirements in Section VI, A, 1.**
- b. For these secondhand dealers, the hold period described above in subsection F shall not apply and will be clearly noted on their license.**

Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him, on the premises occupied by him for his business, for at least 4 months after the date of deposit, if not of a perishable nature; and, if of a perishable nature, for at least one month after said date. Articles of personal apparel shall not be deemed to be of a perishable nature.

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**SECTION VI – RECORDS, INSPECTIONS, RE-SALE, CHANGES, ALTERATIONS
(Cont'd.)**

- G.** All items purchased or pawned shall remain on the premises during the waiting period. These items will not be placed on the sales floor or made available for auction until the applicable waiting period has expired. Each item of property shall be clearly marked indicating its sales release date.
- H.** Any pawned item repurchased by the original seller shall be recorded using the same transaction records clearly marked “buyback” and will be submitted to the Londonderry Police Department within **24** hours of the transaction.

SECTION VII REMOVAL OF ARTICLES BY POLICE OFFICERS

- A.** If any police department determines that any property is needed for evidence in a criminal investigation, said police department shall seize the article(s) pursuant to applicable criminal procedures. The secondhand dealer/pawnbroker/auction broker shall be issued a receipt for the article(s).
- B.** Pursuant to RSA 595-A:6, the police department shall keep seized articles of property under the court’s direction as long as necessary to permit the article(s) to be used as evidence. At the conclusion of all court proceedings or closure of the police investigation, the police department shall notify the original owner, the secondhand dealer/pawnbroker/auction broker and/or any person or entity 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.

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SECTION VIII VIOLATION

- A. Any person who violates any provision of this ordinance shall be guilty of a violation and subject to the provisions of RSA 676:17 which provides for fines/civil penalties up to \$275.00 per day for the first offense and \$550.00 for subsequent offenses. Each continuing day of violation after notice shall constitute a separate offense.
- B. The Chief of Police may suspend or revoke any license issued pursuant to this ordinance for just cause.
- C. Any suspension, license revocation or permit refusal by the Chief of Police may be appealed by the licensee/applicant to the Town Council. The appeal must be made within ten business days of the revocation or permit refusal date.
- D. The provisions of this ordinance 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.

--End of Chapter--