

CITY OF CONCORD

In the year of our Lord two thousand and twenty-three

AN ORDINANCE amending the CODE OF ORDINANCES, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, by amending Article 15-2, Pawnbroker/Secondhand Dealer

The City of Concord ordains as follows:

SECTION I: Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 15, Licensing and Regulation of Businesses, Trades and Occupations, by amending Article 15-2, Pawnbroker/Secondhand Dealer, as follows:

ARTICLE 15-2 - PAWNBROKER/SECONDHAND DEALER

15-2-1 - Definitions.

As used in this Article, the following words or phrases shall have the meanings set forth below unless the context clearly indicates a different meaning:

- (a) *Pawnbroker* shall mean a person, firm, or corporation engaged in the business of lending money secured by taking possession of [~~personal property~~] **Secondhand Article**, with the right to sell the [~~personal property~~] **Secondhand Article** if it is not redeemed. A person, firm, or corporation shall be deemed a **P[~~p~~awnbroker** whether the transaction takes the form of a loan by the **P[~~p~~awnbroker to a third party** secured by the [~~property~~]**Secondhand Article**, or a sale of the [~~property~~] **Secondhand Article** with the right to repurchase within a stated period of time.
- (b) *Scrap Metal Dealer* shall mean a person who collects, buys, or sells scrap metal, which includes any product that contains metal that may be recycled.
- (c) *Secondhand Article* shall mean an article including, but not limited to, jewelry, watches, diamonds, or other precious stone or gems, gold, silver, platinum, precious metals, or any other metals, including scrap or waste metals, coins, stamps, musical instruments and equipment, cameras, comic books, home and auto stereo equipment, televisions, cell phones, DVD players, multimedia devices, digital equipment, video games, video game systems, and accessories, tools, computers and computer equipment, auto accessories and collectibles, excepting furniture and books. Mail-order transactions or retail stores that exchange or provide cash or credit for returned articles shall not be included within these definitions. Secondhand Articles shall not

include furniture, books (not including comic books), clothing and used motor vehicles/motorcycles by vehicle dealerships.

- (~~[b]~~d) *Secondhand Dealer* shall mean a person, firm, partnership or corporation **including junk dealers and/or scrap yards**, whose business, is the ~~[retail]~~ buying~~[-]~~ **or** selling~~[-]~~, buy back, exchanging, ~~or dealing in~~ **of Secondhand Articles**. ~~[or dealing with secondhand articles including, but not limited to, jewelry, watches, diamonds, or other precious stone or gems, gold, silver, platinum, or other precious metals, coins, stamps, musical instruments and equipment, cameras, furs, home and auto stereo equipment, televisions, VCRs, DVD players, multimedia devices, digital equipment, video games, systems, and accessories, tools, computers and computer equipment, auto accessories and collectibles, excepting furniture and books. Mail order transactions or retail stores that exchange or provide cash or credit for returned articles shall not be included within these definitions.]~~
- (e) *Secondhand Article Transaction shall mean the transfer of a Secondhand Article to a Pawnbroker, Secondhand Dealer or Temporary Pawnbroker/Secondhand Dealer.*
- (f) *Seller shall mean any person transferring a Secondhand Article to a Pawnbroker, Secondhand Dealer or Temporary Pawnbroker/Secondhand Dealer.*
- (~~[e]~~g) Temporary ~~[pawnbroker/temporary]~~ **Pawnbroker/Secondhand Dealer** shall mean a pawnbroker or secondhand dealer as defined above doing business ~~[within the City limits of a period of time that does not exceed fifteen (15) consecutive days]~~ **on a temporary basis, and without an establishment storefront within the City.**

15-2-2 - License Required ~~[Pawnbroker/Secondhand Dealer]~~.

A person, firm, or corporation shall not conduct the business of a **Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer, or Scrap Metal Dealer** ~~[pawnbroker or a dealer in and keeper of a shop for the purchase and sale, or barter, of old junk, old or scrap metals, or secondhand articles, excepting furniture and books,]~~ within the City of Concord without first being licensed pursuant to this Article.

- (a) Application for a ~~[pawnbroker license or]~~ **Pawnbroker, Secondhand Dealer** ~~[secondhand dealer]~~ **and Scrap Metal Dealer** licenses shall be made annually to the Licensing Officer upon forms provided by the Licensing Officer for that purpose. The license shall be issued or denied in accordance with the General Licensing Ordinance, Article 15-10 and RSA 47:17; RSA *ch.* 398 or RSA *ch.* 322. The Licensing Officer shall furnish a copy of the completed application form to the Chief of Police who shall cause an investigation to be made to determine if the applicant has a criminal record. Upon conclusion of the investigation, the Chief of Police shall recommend to the Licensing Officer whether the license should be issued.
- (b) License fees shall accompany each license application. The license **for a Pawnbroker, Secondhand Dealer and Scrap Metal Dealer shall** ~~[will]~~ be valid for one year from the date it is issued and **shall** ~~[may]~~ not be assigned or transferred. A license shall not be

issued to a person, firm, or corporation who has been previously convicted of receiving stolen property in this state or any other state or territory of the United States.

(c) ***The license for a Temporary Pawnbroker/Secondhand Dealer shall be issued or denied in accordance with the General Licensing Ordinance, Article 15-10 and RSA 47:17; RSA ch. 398 or RSA ch. 322. The Licensing Officer shall furnish a copy of the completed application form to the Chief of Police who shall cause an investigation to be made to determine if the applicant has a criminal record. Upon conclusion of the investigation, the Chief of Police shall recommend to the Licensing Officer whether the license should be issued. An issued license shall be valid for no more than fifteen (15) days from the date of issue. A license shall not be issued to a person, firm, or corporation who has been previously convicted of receiving stolen property in this state or any other state or territory of the United States.***

([e]d) The license fee for the issuance of the license shall be established in Article 1-5 Fees, Fines, and Penalties, Schedule I of the General Code.

([e]e) The Licensing Officer may, independently or upon recommendation from the Chief of Police, suspend or revoke said license for just cause, after a hearing.

(1) *Notice and hearing.* The Licensing Officer shall notify the licensee in writing, stating the reasons for which the license is subject to suspension or revocation, and shall inform the licensee of the time and place for the hearing. The notices provided for under this subsection shall be deemed to have been properly served when the notice has been delivered personally to the licensee or person in charge or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the licensee. A copy of such notice shall be filed with the records of the Code Administrator.

(2) *Hearing.* A hearing before the Licensing Officer shall be held within five (5) business days of service of notice. Upon written application, or on his or her own motion, the Licensing Officer shall have authority to extend the time for the hearing date.

(3) *Decision.* Based upon the record of such hearing, the Licensing Officer shall have the authority to suspend or revoke the license. A suspension shall not exceed the term of the original grant of the license. A license that has been revoked shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon after the expiration of at least two (2) years after the date of revocation.

(4) *Appeals.* The licensee shall be entitled to file an appeal to the Licensing Board pursuant to Section 15-10-11. A motion to stay the decision of the Licensing Officer pending the appeal shall not be requested to the Licensing Board unless the licensee first unsuccessfully sought similar relief from the Licensing Officer. This requirement may be waived by the Licensing Board upon motion in extraordinary circumstances.

15-2-3 - Loans to Minors or Intoxicated Persons *Prohibited*.

A ~~[pawnbroker]~~ **Pawnbroker** ~~[secondhand dealer]~~ **Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer, including their employees** ~~[or a person employed by the pawnbroker or secondhand dealer]~~ **shall not conduct their business as defined in the Article with** ~~[directly or indirectly lend money to or received any personal property from]~~:

- (a) A minor except when the minor is accompanied by a parent or legal guardian who shall sign the transaction record in person before the ~~[dealer]~~ **Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer;** or
- (b) A person in a visible state of intoxication, knowing or having reason to believe said person to be intoxicated.

15-2-4 - Records, Inspections, Resale, Changes, Alterations.

A ~~[pawnbroker]~~ **Pawnbroker** ~~[or]~~ ~~[secondhand dealer]~~ **Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer** upon the acquisition of any ~~[article]~~ **Secondhand Article** defined under Section 15-2-1 shall:

- (a) **Within twenty-four (24) hours of the date of the Secondhand Article Transaction, the Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer shall submit the transaction to Leadsonline.com, or to another location as otherwise directed by the Concord Police Chief, which shall require the Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer to provide the Seller's** ~~[Prepare transaction records upon forms approved by the City, stating the]~~ full name, driver's license number or other government issued ID number and address ~~[of the seller,]~~ **and the** date of the transaction, and a full, accurate and detailed description (to include make, model and serial number) of each **Secondhand A[ar]ticle. The P[p]awnbroker, [and] S[s]econdhand D[d]ealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer shall attach an electronic copy of the Seller's driver's license or government-issued identification to the Leadsonline.com, or to another location as otherwise directed by the Concord Police Chief** ~~[a photocopy of the seller's driver's license or government issued identification to the form. A photocopy of the article, if required by the nature or the size of the item, will also be attached to the form. One copy of the transaction record shall be delivered to the Police Department within forty eight (48) hours of the end of the dealer's business day].~~
- (b) ~~Photocopy the article by the use of a document copier, or digital camera: jewelry, watches, diamonds, or other precious stones or gems, gold, silver, platinum, or other precious metals or items by virtue of their size.]~~ **For each submission identified in Section (a) above, the Secondhand Articles shall be itemized separately and shall not be grouped together (i.e., five gold monogrammed rings), but must provide a complete and thorough description of each Secondhand Article to include the following:**

- 1. Type of Secondhand Article;**

2. *Brand name/make/manufacture (if applicable);*
 3. *Model number (if applicable);*
 4. *Serial number (if applicable);*
 5. *Color/finish;*
 6. *Any other identifying marks, writing, engraving, etc.*
- (c) ~~[Secure from the seller positive identification in the form of a driver's license or government-issued identification card and note on the dealer's records the type of identification used. This requirement shall not apply to a transaction between a secondhand dealer and a pawnbroker.]~~ *For each submission identified in Section (a) above, a digital photograph(s) shall be taken of each Secondhand Article, sufficiently detailed to allow reasonable identification of the Secondhand Article. The digital photograph(s) shall capture any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.*
- (d) *For each submission identified in Section (a) above, the Seller identification in the form of a driver's license or government-issued identification card and note on the dealer's records the type of identification used.*
- (~~[d]~~e) *For each submission identified in Section (a) above, [R]retain copies of purchase records in his possession, which, together with any **Secondhand Article** [~~article~~] listed therein, may be inspected at any time by any duly authorized police officer during regular business hours while making all reasonable efforts not to disrupt the normal course of business. **The record shall also contain a description of the Secondhand Article sold including brand name and serial number, if any, and the price paid therefor. The record shall be available at the local place of business for inspection by any duly authorized police officer for one year from the date of transaction.** All transaction records shall be kept by the **Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer** [~~secondhand dealer/pawnbroker~~] for a minimum of three (3) years.*
- (~~[e]~~f) *Not sell, encumber by sales contract, or otherwise dispose of or alter **a Secondhand Article** [~~an article~~] in its appearance, within fourteen (14) days of purchase, unless granted permission in writing from the Chief of Police **or his/her designee**, but in any case not within forty-eight (48) hours of time of purchase (**the "Waiting Period"**).*
- (g) *Scrap Metal Dealers are exempt from the Waiting Period.*
- (~~[f]~~h) *All **Secondhand Articles** shall remain on the premises of the **Pawnbroker, Secondhand Dealer or Temporary Pawnbroker/Secondhand Dealer during the Waiting Period**[~~Retain on the premises all items purchased or pawned during the waiting period and not place such items on the sales floor until the waiting period has expired unless the item is clearly marked as to the sales release date based on the time frames outlined above in 15-2-4(e)~~].*
- (~~[g]~~i) *Clearly mark the transaction records of any [~~pawn item~~] **Secondhand Article** repurchased by the original [~~s~~]Seller [~~"buyback"~~] and submit a copy of the record to [~~the~~*

~~Police Department]~~ ***Leadsonline.com in accordance with Concord Police Department rules*** within ~~[forty-eight (48)]~~ ***twenty-four (24)*** hours of the transaction.

15-2-5 - Removal of Articles by Police Officers.

- (a) If the Police Chief or his designee determines that ~~[an article]~~ ***a Secondhand Article*** is needed for evidence in a criminal investigation, the Police Department shall seize that ~~[evidence]~~ pursuant to applicable criminal procedures. The ***Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer*** ~~[secondhand dealer/pawnbroker]~~ shall be issued a receipt for ~~[the]~~ ***said*** article.
- (b) Pursuant to RSA 595-A[;]:6, the Police Department shall keep seized ~~[articles]~~ ***Secondhand Articles*** under the court's direction as long as necessary to permit the ~~[article]~~ ***Secondhand Article*** 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]~~ ***Pawnbroker, Secondhand Dealer, Temporary Pawnbroker/Secondhand Dealer or Scrap Metal Dealer***, and any person who may have a lawful interest that the property will be released in thirty (30) calendar days to the original owner if no other claim is placed on the ~~[property]~~ ***Secondhand Article***.

15-2-6 - Fines.

Whoever violates any provision of this Article shall be subject to a fine as established by Title 1, Article 1-5, Section 1-5-2 of the General Code, ***or other applicable law***. ***In addition,*** ~~[V]~~violations of any provision of this Article shall be deemed just cause for revocation of license.

SECTION II: This ordinance shall take effect on adoption.

Explanation: Matter inserted into the current ordinance appears in ***bold and italics***.
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].