

CHAPTER 162

SECONDHAND DEALERS AND PAWNBROKERS

History: Adopted by the Board of Selectmen of the Town of Pembroke on February 19, 2013.
Updated 5/5/14.

Intent; authority.

- A. 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.
- B. This chapter has been enacted pursuant to the authority granted to the Town of Pembroke by New Hampshire RSA §§ 41:11-c, 322 and 398.

Definitions.

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

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 (Junk and scrap metal dealers).

Exclusions.

Mail order transactions and retail stores that exchange or provide cash or credit for returned articles are excluded from this chapter. Yard sales are also excluded and are governed by the Town of Pembroke 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 Pembroke 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 Pembroke Code Enforcement Officer on forms provided by the Town of Pembroke. An application fee of \$50.00 shall be submitted with the application. The applicant must provide a criminal background check from the State of New Hampshire for themselves and or employees at the time of submitting the application.
 - (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. This investigation shall be completed within 30 days, or as close to such time as reasonably necessary. 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, through the Town Administrator, 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 repeatedly 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 or has been found in violation of these regulations herein. 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 for one (1) year from the date of issuance, 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) All persons, firms, partnerships, or corporations that operate, conduct, or engage in business as a secondhand dealer or pawnbroker, and who validly hold a license for the previous year, will be responsible for renewing their license information with the Town of Pembroke Code Enforcement Officer 1 month prior to the expiration of the previous year's license. This renewal will be completed, in writing, on forms provided by the Town of Pembroke. A renewal fee of \$50.00 shall be submitted yearly with the renewal application along with an updated criminal background check from the State of New Hampshire. 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 the application for a license. In addition to this requirement, it shall be the responsibility of the business owner to notify the Pembroke 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 N.H.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 N.H. 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; any title or deed to

real property, including mobile homes, condominiums and rights to interval ownership; any mortgage or any promissory note, including the pledge or assignment of any right to receive payments, rents, or revenue arising from such note; or any article of clothing removed from the person at the place of business of the pawnbroker/second hand dealer, in accordance with N.H. RSA § 398:2.

Records.

- A. Every secondhand dealer or pawnbroker, upon the acquisition of any aforementioned article, shall prepare transaction records (written in the English language) upon forms provided by the Town of Pembroke or a list agreed upon by the Chief of Police. This form shall state the full name (if available), identification number (if available), 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 government-issued, 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 of the article or a full description to include serial numbers and model numbers and or any other identifying numbers pertaining to that item will also be attached to this form. Jewelry, watches, diamonds or other precious stones or gems, gold, silver, platinum or other precious metals or items by virtue of their size shall be photocopied by use of a document photocopier.
- C. All pawn or secondhand dealer stores shall be equipped with electronic monitoring/recording equipment that records all public and non public entrances and exits 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.
- D. One copy of all transaction records shall be delivered to the Pembroke Police Department on a quarterly basis (every three months).
- E. 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, in accordance with New Hampshire RSA 398:12. 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.

- F. 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. See N.H. RSA §§ 322:7 and 398:13.
- G. All original transaction records shall be kept by said secondhand dealer or pawnbroker for a minimum of six (6) years for purposes of this chapter. State and federal regulations may require longer retention (*e.g.* Department of Labor, Internal Revenue Service).

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. Articles of personal apparel shall not be deemed to be of a perishable nature.

Removal of articles by police officers.

- A. If the Pembroke 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 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 Pembroke Police Department, or an authorized agent of the Pembroke 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 Pembroke 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 in the property that the property will be released in 30 calendar days to the original owner or as the court authorizes for disposal, if no other claim is placed on the property.

Violations and penalties.

- A. Unless otherwise authorized by law, any violation of this chapter shall be punishable by a fine not exceeding \$100 per day.
- B. The Board of Selectmen, through the Code Enforcement Officer 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 within five days of said hearing.

TOWN OF PEMBROKE

Code Enforcement Department

APPLICATION FOR SECOND HAND DEALER LICENSE

Application Instructions: Read the following carefully before you sign below. A false statement on any part of this application will be just cause for refusal of this application and may be punishable under RSA 641:3. A \$50 application fee must accompany this application. Make checks payable to the Town of Pembroke.

Applicant Information

Name _____ Date of Application _____

Type of Application NEW _____ Renewal _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

☐ I have previously obtained a Pawnbroker/Second Hand Dealer License # _____ issued on _____ by _____.

Name of Business: _____

☐ I have had a Pawnbroker/Second Hand Dealer License **REVOKED/SUSPENDED**. If so, please include the date it was revoked, the reason and the original issuing agency.

_____ revoked/suspended on _____ by _____ Reason: _____.

Have you ever been convicted of a crime which has not been annulled by the court having jurisdiction?

Yes _____

NO _____

Have you ever had a second hand dealer's license denied in this state or any other state?

Yes _____

NO _____

If the answer to either of the above is yes, please explain:

Company Information

Company Name _____

Company Address _____

Company Phone Number _____

Owner's Name _____ Title _____

Owner's Home Address _____

Employees

*Note: This application **MUST** include all personal identifying information for all persons operating or intending to operate under this license. If additional space is needed, please include additional employees on the back of this application.*

1.) Name _____ Occupation _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

2.) Name _____ Occupation _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

3.) Name _____ Occupation _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

4.) Name _____ Occupation _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

5.) Name _____ Occupation _____

Street _____ Driver's License No. _____

City/Town _____ State _____ Zip _____

Date of Birth _____ Place of Birth _____

Height _____ Weight _____ Hair _____ Eyes _____ Sex _____

Merchandise Information

Type of Merchandise you intend to deal in:

Surveillance/Security Information

Please include a description of the “electronic monitoring/recording equipment” your store will be equipped with, pursuant to Pembroke Town Ordinance 162

I have annotated below all of my motor vehicle offenses and criminal convictions and that of all employees that are employed by me or intending to operate under this license.

Note: All additional motor vehicle offenses and criminal convictions should be listed on the back of this application.

Motor Vehicle Offenses

<u>Date</u>	<u>Offense</u>	<u>Employee Name</u>

Criminal History

Date

Offense

Employee Name

I have received a copy of the Town of Pembroke's Second Hand Dealers and pawnbrokers ordinance Chapter 162 and fully understand the provisions contained therein. I agree to abide by, and be subject to all provisions of this ordinance. I understand that any information I give may be investigated as provided for by the Town ordinance. I have received a State of NH criminal record release authorization form and understand that I must submit a copy of any criminal record or documentation indicating none exists to the Pembroke Police Department as part of this application.

I hereby swear that the information stated above is true to the best of my knowledge, under the penalties of law, including False Swearing, pursuant to N.H. RSA § 641:2.

Date

Signature

Date

Justice of the Peace

PEMBROKE POLICE DEPARTMENT

Chief Dwayne Gilman

PAWN BROKER/SECOND HAND DEALER REPORT

Dealer: _____

PRINT NAME: _____

Address: _____

D.O.B: _____ M / F Telephone #: _____

License #: _____ License State: _____ Verified: Y / N

PROPERTY SHEET

[illegible]
