

~CHAPTER 15~

PAWNBROKERS

Section 15-1. Definitions.

- A. For the purposes of this Chapter, a “pawnbroker” is any person who:
1. Engages in the business of lending money on the deposit or pledge of personal property, other than choses in action, securities, or evidence of indebtedness; or
 2. Purchases personal property with an expressed or implied agreement or understanding to sell it back at a stipulated price.

Any pawnbroker may affect the purchase of second-hand personal property for resale purposes under the terms of this Chapter by acquiring any pawn ticket of his own issue by transfer.

- B. For the purposes of this Chapter, a “second-hand goods dealer” shall mean any person, firm, or corporation, other than a pawnbroker or dealer in precious metals and precious gems, who purchases, collects, trades, sells or deals in the following second-hand goods: business machines, tape recorders and tapes, all radio transmitters and receivers, musical instruments, cameras and camera accessories, power tools, sporting goods, stereos, stereo equipment and records, tools and tool boxes, television sets, weapons, bicycles, radios, microwave ovens, and jewelry. This definition shall exempt the following transactions:
1. Any person, firm or corporation selling new, unused articles, and any receiving or taking in used articles or trade from the purchasers of new articles against the purchase price of said new articles which are sold for their market value;
 2. Any person collecting antique items for personal use only;
 3. Casual and occasional sales of used household goods by the owner thereof to the public, on a non-receiving basis, if the seller, at time of sale, is not engaged for profit in the business of selling goods of that or a similar nature. This category includes those sales commonly referred to as “garage sales”;
 4. Any person, firm or corporation dealing exclusively in the resale of used

- automobiles;
5. Any person, firm or corporation that operates a junk yard for wrecked automobiles;
 6. Transactions involving goods sold on consignment;
 7. Transactions in second-hand goods at stores or events sponsored by nonprofit corporations or associations or fraternal or religious organizations.

Section 15-2. License.

No person shall carry on the business of pawnbroker or dealer in second-hand goods without first applying for and securing a license. The annual license fee for pawnbrokers shall be One Hundred Dollars (\$100). The annual license fee for dealers in second-hand goods shall be Twenty-five dollars (\$25).

Any person having a business which encompasses both of the above designated categories set forth in this chapter being conducted on one premises shall obtain both licenses but the total fee for the licenses for the single premises shall not exceed One Hundred Dollars (\$100).

Section 15-3. Fixed Premises.

No person shall engage in business as a pawnbroker or second-hand dealer unless said person has a fixed premises where said business is conducted, either on a continuing basis or from time to time, and unless said person has first obtained a license to engage in that business at the premises.

For the purpose of this section, "fixed premises" shall include any non-mobile premises where such business is conducted and said owned or purchased second-hand articles are held according to the provisions of Section 15-11, whether or not that premises remains in the same location during the period the license is in effect.

Section 15-4. Suspension, Revocation of License.

- A. A license issued to a licensee under this Chapter, who shall have violated the provisions of this Chapter, may be suspended for a prescribed period not to exceed sixty (60) days, in the event of a failure on the part of the licensee to comply with the provisions of this Chapter after ten (10) days written notice and a public hearing.
- B. A license issued to a licensee under this Chapter, who shall have violated the provisions of this Chapter, may be revoked by the Common Council of the City of Hot Springs after ten

(10) days written notice and a public hearing.

Section 15-5. Separate License and Bond for Each Place of Business.

Any person, firm, or corporation conducting several or separate places of business shall pay the appropriate license fees and procure the appropriate licenses and bonds for each place of business. The above mentioned proprietor's license shall be sufficient for all clerks, agents and employees engaged at the place named in the license.

Section 15-6. Change in Location of Licensed Premises.

If, during the effective period of a license issued under this Chapter, a pawnbroker or second-hand dealer changes the location of the licensed premises within the City, such dealer shall inform the City Finance Officer of such change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises.

Section 15-7. Records Required.

- A. Every pawnbroker shall keep books or records of pawn tickets in a manner satisfactory to the Chief of Police, where he shall accurately and intelligibly enter, in ink, in the English language, at the time of purchasing or receiving any personal property, and after requiring and observing identification from the person seeking to pawn the property, a record of the following information:
 - 1. The name of the person from whom the property is purchased or received, his place of residence, and his date of birth.
 - 2. A detailed and accurate description of each article, which shall include, if available, the manufacturer's name, style, model number, serial number, engraved initials, or other identifying marks.
 - 3. The date and time of transaction.
 - 4. The amount necessary for redemption.
 - 5. The date when the article is to be redeemed.
 - 6. Any mortgage or bill of sale taken, or receipt of pawn ticket given.
- B. Every pawnbroker shall also record the date of disposition or redemption from pawn of said article or any part or portion thereof. Said disposition report shall be located in the

same book and at the same place where the receiving records of said article are located.

- C. Every second-hand dealer shall keep books or records for those articles listed in Section 15-1(B) in a manner satisfactory to the Chief of Police or his designee, where he shall accurately and intelligibly enter, in ink, in the English language, at the time of purchasing or receiving any article or item, the following information:
1. The name of the person from whom the property was purchased or received, his place of residence, and his date of birth.
 2. Date and time of the transaction.
 3. A detailed description of the item which shall include, if available, the manufacturer's name, style, model number, serial number, engraved initials, or other identifying marks.
 4. If the seller is not known personally to the dealer or the dealer's agent, the dealer is required to obtain the person's driver's license number and the state of issuance or, if available, the identifying number from at least one (1) form of government issued identification.
 5. The amount paid for the article.
- D. Any person who fails to keep such records or fails to make the required entries therein, or shall intentionally or knowingly make any false or unintelligible entry, or any entry which he has reason to believe is untrue, or who shall fail to produce his records when requested by the City police officer during reasonable business hours, or who shall destroy or willfully permit such records to be destroyed or lost, shall be guilty of a misdemeanor.
- E. The records required by this section shall be maintained for one (1) year after the date of purchase or receipt and shall be made available for inspection to City police officers during reasonable business hours.

Section 15-8. Inspection of Records or License and Pledged Property.

- A. The books or records required by Section 15-7 to be kept by pawnbrokers or second-hand dealers shall be open to the inspection of City police officers during reasonable business hours.

- B. The pawnbroker shall produce and show any article pledged in connection with any loan.
- C. The licenses required by Section 15-2 for pawnbrokers or second-hand dealers shall at all times be on display in a conspicuous place and available for inspection by City police officers during reasonable business hours. This subsection shall not apply when the license is being taken to the City Finance Office to have a change of location recorded.

Section 15-9. Pawn Tickets.

At the time of receiving a pledge and upon the subsequent renewal of a loan, the pawnbroker shall deliver to the pledger or his agent a pawn ticket, which pawn ticket shall be correspondingly serially numbered, and shall contain the following information; the name and address of the pawnbroker; a generic description of the pledge with such particular details of description noted whenever possible in order to distinguish the article or articles; the date and time of the transaction; the amount, duration, and terms of the loan. The pawnbroker may insert on the pawn ticket any other terms, conditions and information that are not inconsistent with the provisions of this Chapter.

Section 15-10. Reports to the Chief of Police; Duty of Police Department.

It shall be the duty of the Hot Springs Police Department to periodically contact the licensed premises under this Chapter to inspect or obtain copies of records required to be kept according to Section 15-8 hereof, setting forth a description of the person by whom they were left in pledge or sold.

Section 15-11. Holding Period; Exceptions.

- A. Any person licensed as a pawnbroker, who shall purchase any new or second-hand goods of any individual not engaged in trade, shall keep the same for inspection for ten (10) days from the time of the transfer, except on written release from the Chief of Police or his designee. The above mentioned property shall be held during this period on the licensed premises or some other secure location within the City and shall not be disposed of or altered from the form in which it was received during this period.
- B. Any person licensed as a second-hand dealer who shall purchase any new or second-hand goods stated in Section 15-1(B) of any individual not engaged in trade shall either:
 - 1. Keep the same for inspection for ten (10) days from the time of transfer, except on written release from the Chief of Police or his designee. The above mentioned property shall be held during this period on the licensed premises or some other

secure location within the City and shall not be disposed of or altered from the form in which it was received during this period, or;

2. Keep the same for three (3) working days, excluding Saturdays, Sundays, and calendar holidays, after delivering the required records to the Police Department. The time period shall begin when said records are delivered to the Police Department. The above mentioned property shall be held during this period in the licensed premises or some other secure location within the City and shall not be disposed of or altered from the form in which it was received, except on written release from the Chief of Police or his designee.

- C. When articles are acquired by a pawnbroker or second-hand dealer in a group, they shall be kept together for identification purposes and not separated until the ten (10) day period has elapsed, unless released prior on written authorization by the Chief of Police or his designee.

Section 15-12. Pawned Article to be Held Forty Days.

Every article of any kind or description which is taken in pawn by a pawnbroker shall be held by the pawnbroker for a period of forty (40) days, during which time the same shall not be shown either for sale or for inspection, to any person, other than a City police officer, during reasonable business hours.

Section 15-13. Effect of Hold Order.

The Chief of Police or any authorized police officer may, by written order, order a pawnbroker or second-hand dealer to hold any specified article or articles, deposited with or in custody of such pawnbroker or second-hand dealer, for purposes of further investigation by the police department, when said item or items are believed to be stolen. A hold order shall remain in effect for a period of thirty (30) days commencing the day on which the hold order was delivered to the pawnbroker or second-hand dealer. A hold order shall supersede the provisions of Section 15-11 and 15-12 and no sale or other disposition may be made of said article or articles while such hold order remains outstanding, unless released by officers issuing the hold order.

Section 15-14. Accepting Articles From Other Than True Owner.

A pawnbroker who accepts in pledge any article as security for a loan from a pledger who is not the owner thereof, obtains no property in the article, either by reason or maturation of the loan or by transference of the pawn ticket to the pawnbroker by the pledger or holder thereof except as

hereinafter provided. If the true owner of the article is a South Dakota resident, then the true owner in order to reclaim the article shall either be required to reimburse the pawnbroker for the amount the pawnbroker has against the article or in the alternative, if the true owner is willing to file a complaint bringing criminal charges against the wrongful pledger the true owner shall be entitled to receive the article back at no cost at the conclusion of criminal court proceedings. Through such proceedings the pawnbroker will have the opportunity to make a claim for restitution from the wrongful pledger in the criminal proceedings. In the event of criminal proceedings, the pawnbroker shall retain possession of the subject article or articles until they are needed for criminal proceedings. The foregoing procedures shall also apply in the event the true owner of the pledged article or articles is from outside the State of South Dakota.

Section 15-15. Unlawful Transactions.

It shall be unlawful for any pawnbroker or second-hand dealer to accept any articles in pawn or purchase any second-hand personal property by acquiring a pawn ticket by transference from any person under eighteen (18) years of age, except for a minor accompanied by his parent or adult guardian who gives his written approval to said transaction.

Section 15-16. Concealing Articles to Prevent Identification.

No pawnbroker or second-hand dealer shall conceal, secrete or destroy, for the purpose of concealing, any article purchased or received by him, for the purpose of preventing identification thereof by City police officers.

Section 15-17. Examination of Premises by City Police Officer.

No pawnbroker or second-hand dealer or any other personnel shall refuse, resist or attempt to prevent any City police officer without a warrant from examining the licensed premises occupied by the pawnbroker or second-hand dealer, or their secured premises within the City limits where property is stored, during reasonable hours for the purpose of discovering stolen property.