

TOWN OF WATERBORO NOTICE OF PUBLIC HEARING

The Waterboro Board of Selectmen will be holding a Public Hearing on Tuesday, April 21, 2009 beginning at 6:00 pm to review and receive comments from the public for the following: (copies are available at the Town Office)

WATERBORO PAWNBROKERS ORDINANCE

1. Title:

This ordinance shall here by be known as the Waterboro Pawnbrokers Ordinance.

2. Purpose:

The purpose of this Ordinance is to regulate the operations of pawnbroker, through the requirement of a license from the municipal officers and compliance with the provisions of this Ordinance and State law.

3. Authority and Enforcement:

3.1 This ordinance is enacted pursuant to the authority granted in 30-A M.R.S.A. Sections 3961-3965.

3.2 A law enforcement officer or code enforcement officer is authorized to enforce compliance with the provisions of this ordinance and to prosecute all violators thereof.

4. Definitions

4.1 **Pawnbroker:** "Pawnbroker" means a person who engages in pawn transactions

4.2 **Pawn transaction:** "Pawn transaction" means the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

4.3 **Pawn shop:** "Pawn Shop" means a physical structure where tangible personal property is stored by a pawnbroker and pawn transactions are conducted.

4.4 **Good Moral Character:** "Good Moral Character" means a person who has not been convicted of a crime within the disqualifying crime periods established in Section 4.5.

4.5 **Disqualifying Crime Period:** " Maine law or equivalent laws of other jurisdictions :

4.5.1 For a period of one (1) year from the date of the discharge of the sentence for the most recent conviction for a Class D or E crime, or an equivalent offense in any other jurisdiction, that falls into any one of the following categories: theft, robbery, burglary, assault, sex crimes, drugs, prostitution, weapons, or any major traffic offense.

4.5.2 For a period of three (3) years from the date of the discharge of the sentence for the most recent conviction for a Class C crime, or an equivalent offense in any other jurisdiction.

4.5.3 For a period of five (5) years from the date of the discharge of the sentence for the most recent conviction for a Class B crime, or an equivalent offense in any other jurisdiction.

4.5.4 For a period of ten (10) years from the date of the discharge of the sentence for the most recent conviction for a Class A crime, or an equivalent offense in any other jurisdiction or if either of the following have occurred.

- i. The applicant has received more than two (2) criminal convictions for Class B, C or D

crimes, or any combination of such crimes within the preceding ten (10) year period; or

- ii. The applicant has utilized a weapon of any type in the commission of a crime.

Where an applicant for a license or a licensee has more than one (1) disqualifying criminal conviction within the previous ten (10) years, the applicant shall be disqualified for the longest applicable period of time. If an applicant receives a subsequent disqualifying criminal conviction during a period of disqualification for another offense, the disqualification period for the subsequent offense shall run from the date of the discharge of the sentence for the subsequent conviction. If the disqualification period for the subsequent offense extends beyond the initial disqualification period, then the applicant shall remain disqualified for such additional time period.

The periods of disqualification set forth, other than subsection 4.5.4 may be reduced by six (6) months if the applicant can show that after the conviction he or she did at least one (1) of the following:

- (1) Successfully completed a drug or alcohol rehabilitation program, as evidenced by a certificate of completion of the program or a letter from an official of the program;
- (2) Successfully completed a domestic violence therapy program or treatment if the disqualifying criminal conviction involved domestic violence, as evidenced by a certificate of completion of the program, a letter from an official of the program or a letter from a licensed counselor or therapist; or
- (3) Made restitution for the crime committed, as evidenced by appropriate court documentation or probation records.

5. Application and Procedure

5.1 New License

- 5.1.1 The applicant shall submit a completed application and appropriate fees as set forth in section 6.1 to the Administrative Secretary.
- 5.1.2 Upon receipt of a completed application and all applicable fees, the application will be forwarded to the following:
 - 5.1.2.1 Code Enforcement officer and Fire Chief for inspection/approval to ensure place of business is in compliance with building and fire safety codes.
 - 5.1.2.2 Town Administrator or his/her designee to run a criminal background check to ensure applicant is of Good Moral Character.
 - 5.1.2.3 Tax Collector to verify that the applicant's personal property and real estate taxes are paid and or payment arrangements made.
- 5.1.3 Upon completion of the above inspections/approvals, the Administrative Secretary will place the license request on the next Selectmen's agenda for scheduling of a public hearing.
- 5.1.4 Upon completion of a public hearing he Selectmen will make a decision to approve or deny the license.
- 5.1.5 Upon approval from the Board of Selectmen, the Administrative Secretary will forward the approved license to the applicant.

5.2 Renewals

- 5.2.1 The applicant shall submit a completed application with appropriate fees as set forth in section 6.1 at least 30 days prior to expiration.

- 5.2.2 Upon receipt of a completed application and all applicable fees, the application will be forwarded to the following:
 - 5.2.2.1 Code Enforcement officer and Fire Chief for inspection/approval to ensure place of business is in compliance with building and fire safety codes.
 - 5.2.2.2 Town Administrator or his/her designee to run a criminal background check to ensure applicant is of Good Moral Character.
 - 5.2.2.3 Tax Collector to verify that the applicant's personal property and real estate taxes are paid and or payment arrangements made.
- 5.2.3 Upon completion of the above inspections/approvals, the Administrative Secretary will place the license request on the next Selectmen's agenda.
 - 5.2.3.1 For applicants who have had a license denied in the previous 3 years, a public hearing will be required.
 - 5.2.3.2 For applicants who have not had a denial of a license in the past 3 years, the license request will be placed on the agenda for approval.
- 5.2.4 Upon approval from the Board of Selectmen, the Administrative Secretary will forward the approved license to the applicant.

6. Fees

- 6.1 The fee for both a new or renewal license application requiring a public hearing shall be \$345.00
- 6.2 The fee for a renewal that does not require a public hearing shall be \$150.00

7. Regulations

- 7.1 Purchase from minor prohibited: A pawnbroker will not either directly or indirectly purchase or receive by way of barter or exchange any goods or articles of value from a person who has not attained the age of 18 years.
- 7.2 Recordkeeping: Each pawnbroker, at the time of receiving any article pawned, pledged or received in exchange, or any other article or consideration, shall give the customer a statement that the pawnbroker will return the article at a stipulated price, which shall be computed in accordance with the requirements of 30-A M.R.S.A. 3963 and shall provide the consumer with the information required by 30-A M.R.S.A. § 2962. The pawnbroker also shall complete a statement stating the full name, age, sex and address of the person with whom the transaction is being made, the day and hour when the transaction took place, and a full, accurate and detailed description including all distinguishing marks and numbers of each article so pawned, pledged or exchanged so as to make its identification certain and plain; list the fair market value thereof and the price paid by the licensee; the source from which and the time when the pawn or, pledge or vendor procured such article. The statement shall be signed by the person with whom such transaction has been made. Prior to 10:00 a.m. of the next business day following the transaction, the pawnbroker shall provide a copy of said statement to the York County Sheriff's Office via personal delivery, fax or e-mail. The pawnbroker shall retain the original statement for a period of one year after the sale or return of said item, which together with any article therein listed may be inspected by any law enforcement officer at any time. Articles purchased outright by pawnbrokers must be retained at the place of business for not less than one week after the purchase and be available for inspection by law enforcement. No article pawned, traded or sold shall be altered or changed until opportunity has been given for inspection by law enforcement.
- 7.3 Display of license, regulations and sign: Each pawnbroker shall post in a conspicuous location within the place of business a copy of the state statutes, a copy of this ordinance, and will further display within the place of business a sign, legibly inscribed in large letters in the English language, stating the name and occupation of the pawnbroker

8. Penalties

- 8.1 Whoever carries on a business with out a license commits a civil violation for which a fine of \$100.00 shall imposed. For the purpose of this article, each day any person operates contrary to the provisions of this ordinance is a separate violation.

9. Expiration

- 9.1 All pawnbroker licenses shall expire at midnight 1 year after date of issuance unless otherwise

indicated.

10. **Denial:** The municipal officers may deny a license under the following conditions:
 - 10.1 The applicant(s) does not meet the standard of Good Moral Character, as defined in this Ordinance.
 - 10.2 The structure where the pawn shop is to be is found to be in violation of building or safety code
 - 10.3 The applicant has failed to comply with any other provisions of this ordinance

11. **Hearing following denial of license:** If the municipal officers deny a license application under this ordinance, they shall notify the applicant in writing, stating the reasons for the denial. The applicant may appeal the denial to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure within 30 days after the vote to deny the license.

12. **Suspension or revocation of license:** Any license issued under this ordinance may be suspended or revoked by the municipal officers for the following causes:
 - 12.1 Violations of state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance
 - 12.2 Violations of any license condition.
 - 12.3 Falsehoods, misrepresentations or omissions in the license application.

13. **Hearing for suspension or revocation:** Prior to the suspension or revocation of a license, the Board of Selectman shall give the licensee opportunity for hearing.
 - 13.1 Notice of such hearings will be provided to the licensee via certified mail at least seven day prior to the date of the hearing.
 - 13.2 The licensee will be given an opportunity to hear the evidence in support of the charge(s) against the licensee, to cross-examine, alone or through counsel, the witnesses, and be heard in the licensee's own defense.
 - 13.3 After considering all information presented, the municipal officers may suspend or revoke a license if they find that the licensee violated any portions of this ordinance.
 - 13.4 The licensee may appeal the suspension or revocation to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure within 30 days after the vote to suspend or revoke the license.