

Meeting of September 6, 2017

South Portland City Council
Position Paper of the City Manager

Subject:

ORDINANCE #4-17/18 – Amending Chapter 14, “Licenses, Permits and Business Regulations Generally,” regarding secondhand dealers and pawnbrokers. First reading. Passage requires majority vote.

Position:

At the August 28, 2017 workshop, the Council heard a presentation from Police Chief Ed Googins proposing several changes to the City’s Secondhand Dealers and Pawnbrokers ordinance. Highlights of these changes include:

- Clarifying the distinction between a secondhand dealer and others, such as pawn brokers or junk collectors
- Outlining the forms of identification pawnbrokers should collect when accepting items (eg. motor vehicle operator’s license)
- Clarifying the time pawnbrokers need to retain statements and other items (two years)
- Increasing the number of days from 10 to 15 that a pawnbroker must retain an article(s) on premises before it is altered or sold/pawned
- Allowing info on articles to also be provided in non-electronic format
- Prohibiting pawnbrokers from directly or indirectly purchasing or receiving articles if they have reason to believe the seller is a thief or that the item has been stolen
- Making similar changes for secondhand dealers as above for pawnbrokers

According to Chief Googins, these changes are coming forward to reflect present practice and to make it easier for our Police Department to search and track down stolen items.

Licensed secondhand dealers and our single pawnshop were notified by letter of the proposed changes brought forward at the Council workshop held on August 28th.

Chief Googins will be available at the meeting to answer any questions.

Requested Action:

Council passage of first reading and set September 18, 2017 for second reading and action.



City Manager



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH
Mayor

SCOTT T. MORELLI
City Manager

EMILY F. SCULLY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

IN CITY COUNCIL

ORDINANCE #4-17/18

THE COUNCIL of the City of South Portland hereby ordains that Chapter 14, "Licenses, Permits and Business Regulations Generally," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (additions are underlined; deletions are ~~struck out~~):

Chapter 14

LICENSES, PERMITS AND BUSINESS REGULATIONS GENERALLY

ARTICLE I. IN GENERAL

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Sec. 14-2. Definitions.

As used in this Chapter, the following words and phrases shall have the meanings ascribed to them in this section.

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Minor shall mean any person who has not attained the age of 18 years.

• • •

Secondhand dealer shall mean a person, firm or corporation engaged in the business of selling, exchanging, dealing in, or dealing with, secondhand articles for later resale. In the event any such articles are taken in trade for another or similar article by a retail or wholesale establishment, such transaction shall not be considered as coming within the requirements of this Chapter. The term does not include pawn brokers, junk collectors,

used car dealers, or any person primarily engaged in the retail sale of new and unused articles and who deals only incidentally in used articles, such as one who accepts a used article in trade as part of a transaction involving the sale of a substantially similar new article.

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Sec. 14-19. Pawnbrokers.

- (a) No person, firm or corporation shall engage in the business of a pawnbroker as herein defined unless licensed therefor by the City Clerk.
- (b) Application for such license shall be made upon a form provided and said license shall expire on the 31st day of December each year. The fee for such license shall be as specified in the Schedule of License, Permit and Application Fees established by City Council order.
- (c) No such application for license shall be granted by the City Clerk until after the Police Chief shall have investigated the applicant in accordance with the requirements of State law. In order to facilitate such investigation by the Police Chief, the applicant shall on the required form state his/her name and address, his/her date of birth and in the case of a firm or corporation as applicant, such information shall be given for each principal of said firm or corporation. The Police Chief shall investigate whether or not the applicant or principals of the applicant have any criminal record and shall base each recommendation for approval or denial upon a search of such records. The recommendation of the Police Chief shall be endorsed in writing on the application form.
- (d) Every pawnbroker, at the time of receiving any article pawned, pledged or received in exchange, or any other article or consideration, shall give the pawnor a statement that the pawnbroker will return the article at a stipulated price that shall be computed in accordance with the requirements of 30-A M.R.S.A. § 3963, as may be amended, and shall complete a sworn statement, ~~blanks for which shall be furnished by or approved by the Police Chief,~~ stating the full name, ~~agedate of birth,~~ sex and address of the person with whom the transaction is being made; ~~the date;~~ ~~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 as will make its identification certain and plain and containing a photograph of the article if a photograph is deemed necessary and appropriate by the Police Chief; ~~and the fair market value thereof and~~ the price paid by the pawnbroker; and the source from which and the time when the pawnor, pledgor or vendor procured the same, ~~and~~ The pawnbroker shall cause such statement to be signed and sworn to by the person with whom such transaction has been made and shall copy or make a record of the proof provided of the seller's identification, ~~and within forty-eight (48) hours~~

after the transaction shall electronically report the relevant information contained in the sworn statement to the Police Chief or his/her designee. Before completing this statement, the pawnbroker shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item. The pawnbroker shall retain the statement in his or her possession for a period of not less than two (2) years from the date of the transaction, which statement, together with any article therein listed, may be inspected by any police officer at any and all times. Articles purchased outright by pawnbrokers shall be retained on the premises not less than fifteen (15) ~~ten (10)~~ days, unless sooner released pursuant to 30-A M.R.S.A. § 3972(5) or by the Police Chief or his/her designee, and no article pawned, traded or sold shall be altered or changed until opportunity shall have been given for examination of such articles by the Police Chief or his/her designee. The relevant information related to all articles so pawned, pledged, received, exchanged, traded, purchased or sold shall be reported to the Police Chief or his/her designee within forty-eight (48) hours of the transaction either electronically or in such other manner and format approved in advance by the Police Chief.

- (e) No pawnbroker shall directly or indirectly either purchase or receive by way of barter or exchange any goods or articles from a minor, knowing or having reason to believe him or her to be such, unless the minor is accompanied by his or her parent or guardian.
- (f) No pawnbroker shall directly or indirectly either purchase or receive by way of barter or exchange any goods or articles knowing or having reason to believe that the seller is a thief and/or that the item is a stolen item or not the property of the person trying to sell, barter or exchange the item. The pawnbroker shall relinquish any item suspected, believed or known by either the pawnbroker or the Police Department to be stolen to any police officer investigating such theft, with a receipt given therefor.
- (g) In addition to the display of licenses required by Section 14-10 of all licensees, every pawnbroker shall post in a conspicuous location in his or her place of business a copy of the Maine statutes applicable to pawnbrokers and a copy of this Article.
- (h) Except to the extent that this Article contains a contrary provision, all provisions of 30-A M.R.S.A. §§ 3960-3964-A, as may be amended, shall be additional to the provisions of this Article.

Sec. 14-20. Secondhand dealers.

- (a) No person, firm or corporation shall engage in the business of a secondhand dealer as herein defined unless licensed therefor by the City Clerk.

- (b) Application for such license shall be made upon a form provided and said license shall expire on the 31st day of December each year. The fee for such license shall be as specified in the Schedule of License, Permit and Application Fees established by City Council order.
- (c) No such application for license shall be granted by the City Clerk until after the Police Chief shall have investigated the applicant in accordance with the requirements of State law. In order to facilitate such investigation by the Police Chief, the applicant shall on the required form state his/her name and address, his/her date of birth and in the case of a firm or corporation as applicant, such information shall be given for each principal of said firm or corporation. The Police Chief shall investigate whether or not the applicant or principals of the applicant have any criminal record and shall base each recommendation for approval or denial upon a search of such records. The recommendation of the Police Chief shall be endorsed in writing on the application form.
- (d) Every secondhand dealer, upon acquisition of any article either by purchase or exchange (and specifically excluding acquisition by donation or consignment), shall complete a transaction records, ~~blanks of which shall be furnished by or approved by the Police Chief,~~ stating, at a minimum, the full name and address of the seller; the month, date and year on which the transaction took place; ~~and~~ a full and detailed description of each article so purchased or exchanged and containing a photograph of the article if a photograph is deemed necessary and appropriate by the Police Chief; and the price paid for the article, ~~with the price paid therefore, and~~ The secondhand dealer shall cause such record to be signed by the seller in person. Before recording this information, the secondhand dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item and shall copy or make a record of the proof provided of the seller's identification. The relevant information in the transaction record shall be ~~electronically or otherwise~~ reported to the Police Chief or his/her designee within forty-eight (48) hours of the transaction thereafter, unless earlier electronically reported to a duly authorized police officer upon request either electronically or in such other manner and format approved in advance by the Police Chief. The secondhand dealer shall retain the record in his or her possession for a period of not less than two (2) years, during which time the record may be inspected at any and all reasonable times by any police officer. No article so purchased shall be sold or otherwise disposed of, or changed or altered in its appearance or otherwise, within fifteen (15)ten (10) days after purchase thereof, except with the written consent of the Police Chief or his/her designee; provided, however, that this fifteen (15)ten (10) day hold provision shall not apply to bullion oriented gold, silver, platinum or palladium coins or bars. The Police Chief may impose reasonable conditions for the grant of such consent.

- (e) No secondhand dealer shall directly or indirectly either purchase or receive by way of barter or exchange any goods or articles from a minor, knowing or having reason to believe him or her to be such, unless the minor is accompanied by his or her parent or guardian.
- (f) No secondhand dealer shall directly or indirectly either purchase or receive by way of barter or exchange any goods or articles knowing or having reason to believe that the seller is a thief and/or that the item is a stolen item or not the property of the person trying to sell, barter or exchange the item. The secondhand dealer shall relinquish any item suspected, believed or known by either the secondhand dealer or the Police Department to be stolen to any police officer investigating such theft, with a receipt given therefor.
- (g) Except to the extent that this Article contains a contrary provision, all provisions of 30-A M.R.S.A. §§ 3971-3972, as may be amended, shall be additional to the provisions of this Article.

Fiscal Note: Less than \$1,000

Dated: September 6, 2017