

TITLE 23**PAWNBROKERS OR SECONDHAND DEALERS****CHAPTER 23****PAWNBROKERS OR SECONDHAND DEALERS**

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23.01.01 - DEFINITIONS:

- (a) A pawnbroker shall mean any person, firm or corporation who:

- (1) Engages in the business of lending money on the deposit or pledge of personal property, other than chooses 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.
- (3) Any pawnbrokers may effect the purchase of secondhand personal property for resale purposes under the terms of this Chapter by acquiring any pawn ticket of his own issued by transfer.

(b) A secondhand good 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 secondhand 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 the new articles against the purchase price of said new articles which were 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 the 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 secondhand goods at stores or events sponsored by non-profit corporations or associations or fraternal or religious organizations.

23.01.02 - LICENSE REQUIRED; FEE; TERM OF LICENSE

(a) It shall be unlawful for any person, firm or corporation to engage in the business of pawnbroker or secondhand dealer, without first obtaining a license from the City Finance Officer. The verified application for such license shall contain applicant's name, and residence; description identification of the place where he/she intends to do business; description of the goods he/she intends to handle; the Social Security number or tax identification number of the applicant and other information

required by the City Finance Officer. Any person applying for a pawnbrokers license or a secondhand dealers license must, before their application will be considered, contact the Sturgis Police Department and furnish adequate identification for the purpose of a records check. No license under this Chapter shall be issued to any person who has been convicted of a felony; no license under this Chapter shall be issued to any corporation wherein one or more officers or directors of which have been convicted of a felony.

(b) The annual license fee for a pawnbrokers license shall be One Hundred Dollars (\$100.00), payable in advance.

(c) The annual license fee for secondhand dealers shall be Twenty-five Dollars (\$25.00), payable in advance.

(d) Any person having a business which encompasses more than one of the three (3) designated categories set forth in this Chapter, and all businesses being conducted on one premises, shall obtain all appropriate licenses, but the total fee for licenses for the single premises shall not exceed One Hundred Dollars (\$100.00).

(e) The term of the license shall be for one (1) year.

23.01.03 - FIXED PREMISES

(a) No person shall engage in business as a pawnbroker or secondhand 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 that premises.

(b) For the purpose of this section, "fixed premises" shall include any non-mobile premises where such business is conducted and said pawned or purchased secondhand articles are held according to the provisions of Section 23.12.23, whether or not that premises remains in the same location during the period the license is in effect.

23.10.14 - BOND

Each pawnbroker doing business in the City shall furnish a good and sufficient bond, with a surety to be approved by the City Council, in the sum of One Thousand Dollars (\$1,000.00), conditioned for the faithful observance of the Chapter and conditioned for the safekeeping or return of all articles held in pledge of such pawnbroker.

23.01.05 - SUSPENSION, REVOCATION OF LICENSE

(a) A license issued to a licensee under this section, 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.

(b) A license issued to a licensee under this section, who shall have violated the provisions of this section, may be revoked by the Common Council of the City of Sturgis after ten (10) days written notice and a public hearing.

23.01.06 - SEPARATE LICENSE AND BOND FOR EACH PLACE OF BUSINESS

Any person, firm or corporation conducting several or separate place of business shall pay the appropriate license fees and procure the appropriate licenses and bond 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.

23.01.07 - CHANGE IN LOCATION OF LICENSED PREMISES

If, during the effective period of a license issued under this Chapter, a pawnbroker or secondhand 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.

23.01.08 - 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 intelligently enter, in ink, in the English language, at the time of purchasing or receiving and personal property, and after requiring and observing identification from the person seeking to pawn the property, record 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 description of the item 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 secondhand dealer shall keep books or records for those articles listed in Section 20-1(b) in a manner satisfactory to the chief of police or his designee, where he shall accurately and intelligently 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 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 make the inquiries necessary to enable him to make such entries or any of them, or who shall fail to produce his records when requested by a 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 the city police officers during reasonable business hours.

23.01.09 - INSPECTION OF RECORDS OR LICENSE AND PLEDGED PROPERTY

(a) The books or records required by Section 20.01.08 to be kept by pawnbrokers or secondhand dealers shall be open to the inspection of city police officers during reasonable business hours.

(b) The licenses required in Section 20.01.02, pawnbrokers and secondhand 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 sub-section shall not apply when the license is being taken to the city Finance Officer to have a change of location recorded.

23.01.10 - PAWN TICKETS

At the time of receiving a pledge and upon the subsequent renewal of a loan, the pawnbroker shall deliver to the pledgor or his agent a pawn ticket, which pawn tickets 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.

23.01.11 - REPORTS TO THE CHIEF OF POLICE; DUTY OF POLICE DEPARTMENT

- (a) It shall be the duty of the Sturgis 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 23.01.08 hereof, setting forth a description of the person by whom they were left in pledge or sold.
- (b) The chief of police or his designee shall have the power and authority to require such reports to be made in a manner and form subject to his approval.

23.01.12 - HOLDING PERIOD; EXCEPTIONS

- (a) Any person licensed as a pawnbroker, who shall purchase any new or secondhand 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 secondhand dealer who shall purchase any new or secondhand goods stated in Section 20.0101(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 Saturday, Sundays and calendar holidays, after delivering the required records to the Sturgis Police Department. The time period shall begin when said records are delivered to the Sturgis 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 secondhand 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.

23.01.13 - PAWNED ARTICLES 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.

23.01.14 - EFFECT ON A HOLD ORDER

The chief of police or any authorized police officer may, by written order, order a pawnbroker or secondhand dealer to hold any specified article or articles, deposited with or in custody of such pawnbroker or secondhand 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 secondhand dealer. A hold order shall supersede the provisions of Sections 23.0112 and 23.0113, 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.

23.01.15 - ACCEPTING ARTICLES FROM OTHER THAN LAWFUL OWNER

A pawnbroker who accepts in pledge any article as security for a loan from a pledgor who is not the owner thereof, obtains no property in the article either by reason of maturation of the loan or by transference of the pawn ticket to the pawnbroker by the pledgor or holder thereof. Ignorance of the fact that the pledged article was lost or stolen shall not be construed to affect the question of title, and if the pawnbroker shall sell such article to a third person, he shall remain liable to the original owner.

23.01.16 - UNLAWFUL TRANSACTION

It shall be unlawful for any pawnbroker or secondhand dealer to accept any articles in pawn or purchase any secondhand personal property by acquiring a pawn ticket by transference from any person under eighteen (18) years of age.

23.01.17 - CONCEALING ARTICLES TO PREVENT IDENTIFICATION

No pawnbroker or secondhand 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.

23.01.18 - EXAMINATION OF PREMISES BY CITY POLICE OFFICER

No pawnbroker or secondhand 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 pawn broker or secondhand dealer, or other secured premises within the City limits where property is stored, during reasonable business hours for the purpose of discovering stolen property.

ARTICLE II**23.01.19 - DEFINITIONS**

(a) Dealer in precious metals or precious gems shall mean any person who engages in a business or purchasing or receiving, for resale, any precious metals or precious gems which were previously sold at retail, or coins, with the exception of gold coins and numismatic coins. This shall not include any person who makes only causal purchases of precious metals or precious gems; nor any person who purchases only at wholesale; nor any person who purchases only occasionally at a coin

show or antique show, the primary purpose of which is showing, rather than buying or selling, the regulated articles; nor any sales made in the administration of the estate or a deceased person; nor any person who deals in recognized forms of investment gold, silver, or platinum bars or ingots, issued or produced by any recognized governmental authority or private corporation, or banking institution, on which is stamped the name or initials of the government, the private corporation, or banking institution, the quantity of metal contained in the bar or ingot, and the government, corporation or bank seal.

(b) Precious metals shall mean gold, silver and platinum and any article made, in whole or in part, of any such metals.

(c) Precious gems shall mean diamonds, emeralds, rubies, sapphires, and pearls, and any other gem of similar value, and any article made, in whole or in part, of such gems.

(d) Person shall mean any individual, partnership, corporation, or association, or any other legal entity, or any agent or employee thereof.

(e) Casual purchases of precious metals or precious gems shall mean the occasional purchase of precious metals or precious gems for the purchaser's own use and not for resale. Any purchase from a dealer in precious metals or precious gems shall be considered a casual purchase.

(f) Regulated transaction shall mean the purchase or receipt by a dealer, other than a casual purchase, or any precious metal or precious gem previously sold at retail, but shall exclude purchases at an occasional coin or antique show, the primary purpose of which is showing, rather than buying or selling, the regulated articles.

(g) Numismatic coins shall mean those coins whose value is in excess of their legal tender value on the date of the particular transaction.

23.01.20 - LICENSE REQUIRED; FEE; TERM OF LICENSE

(a) It shall be unlawful for any person, firm or corporation to engage in the business of pawnbroker or secondhand dealer, without first obtaining a license from the City Finance Officer. The verified application for such license shall contain applicant name, and residence; description identification of the place where he/she intends to do business; description of the goods he/she intends to handle; the Social Security number or tax identification number of the applicant and any other information required by the City Finance Officer. Any person applying for pawnbrokers license or a secondhand dealers license must, before their application will be considered, contact the Sturgis Police Department and furnish adequate identification for the purpose of a records check. No license under this Chapter shall be issued to any person who has been convicted of a felony; no license under this Chapter shall be issued to any corporation wherein one or more officers or directors of which have been convicted of a felony.

(b) The annual license fee for a dealer in precious metals or precious gems license shall be Twenty-five dollars (\$25.00), payable in advance.

(c) Any person having a business which encompasses more than one of the three (3) designated categories set forth in this Chapter, and all businesses being conducted on one premises, shall

obtain all appropriate licenses, but the total fee for licenses for the single premises shall not exceed One Hundred Dollars (\$100.00)

(d) The term of the license shall be in accordance with Chapter 16 of the Code.

23.01.21 - FIXED PREMISES

No person shall engage in business as a dealer in precious metals or precious gems 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 that premises.

For the purposes of this section "fixed premises" shall include any non-mobile premises where such business is conducted and such precious metals or precious gems are held according to the provisions of Section 23.02.28, whether or not that premises remains in the same location during the period the license in effect.

23.01.22 - SUSPENSION, REVOCATION OF LICENSE

(a) A license issued to a licensee under this section, 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 section, who shall have violated the provisions of this section, may be revoked by the common council of the City of Sturgis after ten (10) days written notice and a public hearing.

23.01.23 - 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 bond 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.

If during the effective period of a license issued under this Chapter, a dealer in precious metals or gems 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 license premises.

23.01.24 - RECORDS REQUIRED

(a) Every dealer in precious metals or precious gems shall keep books or records of regulated transactions in a manner satisfactory to the chief of police, or his designee, where he shall accurately and intelligently enter, in ink, in the English language, at the time of the regulated transaction, and after requiring and observing identification from the person seeking to sell the precious metal or precious gem, the following information:

- (1)The name of the person from whom the precious metal or precious gem was purchased, 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 know personally to the dealer or the dealer's agent, the dealer is required to obtain the person's drivers license number and the state of issuance or, if available, the identifying number form at least one form of government issued identification.
- (5)The amount paid for the article.

(b) 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 make the inquires necessary to enable him to make such entries or any of them, or who shall fail to produce his records when requested by a 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.

(c) The records required by this section shall be maintained for one year after the date of purchase or receipt and shall be made available for inspection to City police officers during reasonable business hours.

23.01.25 - INSPECTION OF RECORDS OR LICENSE AND PLEDGED PROPERTY

(a) The books or records required by Section 23.01.25 to be kept by dealers in precious metals and precious gems shall be open to the inspection of the City police officers during reasonable business hours.

(b) The licenses required by Section 23.01.20 pawnbrokers and secondhand shall at all times be on display in a conspicuous place and available for inspection by city police officers during reasonable business hours. This sub-section shall not apply when the license is being taken to the City Finance Office to have a change of location recorded.

23.01.26 - REPORTS TO THE CHIEF OF POLICE; DUTY OF POLICE DEPARTMENT

It shall be the duty of the Sturgis Police Department to periodically contact the licensed premises under this Chapter to inspect or obtain copies of records required to b kept according to Section 23.01.25 hereof, setting forth a description of the person by whom they were sold.

The chief of police or his designee shall have the power and authority to require such reports to be made in a manner and form subject to his approval.

23.01.27 - HOLDING PERIOD; EXCEPTIONS

(a) All precious metals or precious gems purchased or received by a dealer through a regulated transaction shall be identifiable to the record of that transaction and shall be held on the licensed premises of the dealer, or some other secure location within the City, and shall not be disposed of nor altered from the form in which it was received, except on written release from the Chief of Police or his designee, for a period of either:

- (1) Ten (10) days from the date of the regulated transaction; or
- (2) Three (3) working days from the date of the regulated transaction if dealer will deliver the required records to the Sturgis Police Department. The three (3) working day period shall commence at the time the records are delivered to the Sturgis Police Department, excluding Saturdays, Sundays, or calendar holidays.

(b) When articles are acquired by a dealer in precious metals and precious gems in a group, they shall be kept together for identification purposes and not separated until the ten (10) day period or three (3) day period has elapsed, unless released prior on written authorization by the chief of police or his designee.

23.01.28 - EFFECT ON HOLD ORDER

The chief of police or any authorized city police officer may, by written order, order a dealer in precious metals or previous gems to hold any article or articles, deposited with or in custody of such dealer in precious metals or previous gems, for purposes of further investigation by the police Department when said item or items are believed 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 dealer in precious metals and precious gems. A hold order shall supersede the provisions of Section 23.01.28, 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.

23.01.29 - UNLAWFUL TRANSACTION

It shall be unlawful for any dealer in previous metals and precious gems to purchase any articles from an individual under the age of eighteen years of age.

23.01.30 - CONCEALING ARTICLES TO PREVENT IDENTIFICATION

No dealer in previous metals or precious gems 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.

23.01.31 - EXAMINATION OF PREMISES BY CITY POLICE OFFICER

No dealer in precious metals and precious gems 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 dealer in precious metals and precious gems, or other secured premises within the city limits where property is stored, during reasonable business hours for the purpose of

discovering stolen property.

23.01.32 - APPLICATION TO PAWNBROKERS AND SECONDHAND DEALERS

All provisions of this Article shall apply to a person licensed as a pawnbroker or secondhand dealer under Article I of this Chapter, who is engaged in business as a dealer in precious metals or precious gems, except that all the appropriate licenses and bonds must be obtained, and if more than one license is obtained for one premises, the total license fees shall not exceed one hundred dollars (\$100.00), as stated in Sections 23.0102 (d) and 23.0120 (c).