

PAWNBROKER AND SECONDHAND DEALER

3-32-1: DEFINITIONS:

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Individually identifiable articles: Articles that are individually identifiable by a serial number; or other applied numbers, letters, characters or markings; or other unique features that serve to distinguish it from any other similar article and can be used to establish ownership of the article.

Junk/scrap collection vehicle: A motor vehicle used for the commercial pick-up or transportation of junk/scrap material. A personal motor vehicle used to transport junk/scrap belonging to the owner of that vehicle, which owner is not in the business of junk/scrap collection, or family members, friends or neighbors of the vehicle owner, to a junk/scrap yard is not considered to be a junk/scrap collection vehicle, and does not need to be licensed as such.

Junk/scrap: Manufactured articles or parts that have been discarded and are useful only as material for reprocessing or recycling.

Licensee: The owner, operator, and all employees of a business licensed under this article.

Pawnbroker: Every owner, operator or employee engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawner or pledger shall be deemed to be a pawnbroker.

Precious Metals: Any item containing gold (chemical symbol Au), silver (chemical symbol Ag), platinum (chemical symbol Pt), palladium (chemical symbol Pd), or rhodium (chemical symbol Rh) or any combination of gold, silver, platinum, palladium, or rhodium, but not including items containing any chemical or any automotive, photographic, electrical, medical or dental materials, or electronic parts, except for those containing precious metals.

Secondhand dealer: Every owner, operator or employee engaged in the business of the purchase, sale, trade or barter of secondhand articles, including but not limited to recyclable materials, scrap metal, electronics, video game systems/video games/video game accessories, jewelry, valuable and/or precious metals and stones, or household goods, shall be deemed to be a secondhand dealer, whether such dealer operates from a fixed storefront business, or is conducting business on a temporary, short-term basis from a non-fixed location. However, persons selling personal property belonging to them or family members on a temporary basis from their own residential property in the form of a "garage sale" or "yard sale" shall not be considered to be a secondhand dealer under this article, do not need a secondhand dealer's license to engage in such activity, and are exempt from the reporting requirements otherwise required by this article.

3-32-2: EXEMPTIONS:

The following activities shall be exempt from the requirements of this chapter for secondhand dealers:

A. Residential garage sales.

- B. Sales conducted by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been active and in continuous existence for at least one year prior to the holding of the sale, or which are exempt from taxation under section 501(c) of the federal internal revenue code.
- C. Sales or purchases which are regulated by the licensing laws of the state, including automobile dealers, used parts dealers and automotive parts recyclers.
- D. Consumer shows or exhibitions of collectibles other than a show or convention that offers to buy second hand jewelry from attendees.
- E. Sales by auctioneers.
- F. Sales of recyclable materials by a scavenger.
- G. Sales or trades of used books between a customer and owner of a used bookstore.
- H. Sales by providers of commercial mobile services as defined in 47 U.S.C. 332(d) or their authorized dealers.
- I. This article shall not apply to the purchase or sale of used motor vehicles, including motorcycles and motor driven cycles, as defined in the Illinois Vehicle Code, nor shall it apply to businesses or charitable organizations that accept donated goods for resale, nor shall it apply to the sale or purchase of aluminum cans.
- J. This article shall not apply to those businesses that operate on a “consignment” basis, where the owner receives no money up front and the item is maintained for sale in the business.

3-32-3: ELECTRONIC REPORTING OF TRANSACTIONS:

The police department shall enter into a contract for service and maintain its contract for service with Leads-Online, or a similar entity as designated by the Chief of Police, in order to enhance its investigative services to protect both pawnbrokers/secondhand dealers and members of the general public. In the event of a change to its electronic reporting system, the Village will notify all impacted licensees of the change within a reasonable time prior to such change.

Every pawnbroker or secondhand dealer shall operate and maintain a computer system with internet access and photographic or video capability sufficient for the electronic reporting requirements described in this article. Any failure or malfunction of such equipment on the part of the licensee shall not exempt the licensee from the recording/reporting requirements outlined in this ordinance. The licensee shall immediately notify the police department of any such failure or malfunction, and shall have such resolved as soon as practicable. Failure by the licensee to resolve any failure or malfunction of equipment in a reasonable amount of time shall lead to the imposition of penalties as provided in this article.

3-32-4: RECORD OF TRANSACTIONS:

Throughout the term of the license, every pawnbroker and secondhand dealer shall report/upload to Leads-Online, or the Village’s current electronic reporting system, each day

before the hour of 12 o'clock noon, the listed information for each and every transaction conducted during each day they were open for business. All information shall be recorded in the English language.

A transaction shall consist of all articles brought in to a pawnbroker or secondhand dealer for sale, barter, or trade, by an individual (pawner/seller) at the same time and date, and includes the sale of non-junk/scrap articles by a pawnbroker or secondhand dealer to another person. Articles brought into a pawnbroker or secondhand dealer by an individual (pawner/seller) for sale, barter, trade or pawn, at different times on the same date by the same person shall be considered as separate transactions, regardless of how short the difference in time is between those transactions. Separate transactions, either from the same person or different persons, shall not be combined and reported collectively.

Non-junk/scrap articles purchased by a pawnbroker from another business shall not be considered to be transactions for the purposes of this section, and are exempt from the reporting requirements of this section, and are also exempt from the waiting period.

A. Transactions involving Individually Identifiable Articles:

1. All such articles sold, bartered, traded, pledged or pawned to a pawnbroker or secondhand dealer by an individual (pawner/seller) during a transaction shall be associated with the person (pawner/seller) who brought the article(s) in. The licensee shall not lump such articles together, but must provide a completed and thorough description of each item to include the following:
 - a. Type of article
 - b. Brand Name/Make/Manufacturer (if applicable)
 - c. Model Number (if applicable)
 - d. Serial Number (if applicable)
 - e. Color/Finish
 - f. Any other identifying marks, writing, engraving, etc.
 - g. A digital photograph(s) shall be taken of each individually identifiable article, sufficiently detailed to allow reasonable identification of the article. The digital photograph(s) shall capture any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.
 - h. A photographic or scanned image of a photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) driver's license or State identification card issued by the Illinois Secretary of State, and must include the seller's first and last name, current address, date of birth, and physical descriptors. If the seller is selling on behalf of a company or business, the name, address, and telephone number of such company or business shall also be recorded/reported.
 - i. The date and time of the transaction.

- j. A signed statement of the person from whom the property was obtained that he or she is over eighteen (18) years of age and the legal owner of same clear of all attachments and with the legal right to sell.
- B. Transactions Involving Non-individually identifiable articles:
1. Non-Individually identifiable articles may be recorded or reported in bulk, but must specify the weight, type and form of the bulk material.
 2. Each different type and form of Non-Individually identifiable articles brought in to a pawnbroker or secondhand dealer by an individual for sale, barter or trade during a transaction shall be associated with the person who brought the material in.
 3. A photographic or scanned image of a photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) driver's license or State identification card issued by the Illinois Secretary of State, and must include the seller's first and last name, current address, date of birth, and physical descriptors. If the seller is selling on behalf of a company or business, the name, address, and telephone number of such company or business shall also be recorded/reported.
 4. A digital photograph or if the licensee has a video system, video segment of each individual type and form of bulk material purchased by the licensee shall be linked to the record of that transaction in Leads-Online or the Village's current electronic reporting system.
 5. The date and time of the transaction.
 6. A signed statement of the person from whom the property was obtained that he or she is over eighteen (18) years of age and the legal owner of same clear of all attachments and with the legal right to sell.
- C. Paper money shall be exempt from the requirements of this chapter.
- D. In the event the electronic reporting system malfunctions or is otherwise not operational, the licensee shall, at all times during such malfunction or non-operation, be required to keep written records of any and all transactions made during the period of malfunction or non-operation, to include all information required by this section. These written records shall be reported/uploaded to Leads-Online or the Village's current electronic reporting system as soon as practicable after the electronic reporting system is functional. No such written records shall be erased, mutilated or changed. Written records shall be open and available for review upon request by any police officer during regular business hours.

3-32-5: WAITING PERIOD:

- A. No pawnbroker or secondhand dealer shall expose for sale, sell, trade, barter, melt, crush/compact, destroy, or otherwise dispose of any individually identifiable article within seven (7) days of the time of purchasing or receiving the same.
- B. No pawnbroker or secondhand dealer shall expose for sale, sell, trade, barter, melt, crush/compact, destroy or otherwise dispose of any non-individually identifiable jewelry or

other non-individually identifiable articles, except paper money, within seven (7) days of the time of purchasing or receiving the same.

- C. All items subject to this section shall be stored at the location in which they were purchased during the waiting period.

3-32-6: JUNK/SCRAP ARTICLES:

Purchases by licensees.

1. Junk/scrap articles may be recorded/reported in bulk, but must specify the weight, type (e.g., steel, copper, aluminum, etc.) and form (e.g. sheet, pipe, wire, etc.) of the bulk material.
2. Each different type and form of junk/scrap bulk material brought in to a secondhand dealer by an individual for sale during a transaction shall be associated with the person who brought the material in. Licensees shall record/report the following information for each such transaction:
 - a. The name, current address and date of birth of the pawner/seller.
 - b. A photographic or scanned image of a photo ID card of the seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States, and must include the pawner/seller's first and last name, current address, date of birth, and physical descriptors.
 - c. If the seller is selling on behalf of a company or business, the name, address, and telephone number of such company or business shall also be recorded/reported.
 - d. If the junk/scrap is brought by motor vehicle to a licensee for sale, the make, model, color, and license plate number of that vehicle shall be recorded/reported.
 - e. The date and time of the transaction.
 - f. A digital photograph or, if the licensee has a video system, video segment of each individual type and form of bulk material purchased by the licensee shall be linked to the record of that transaction.

3-32-7: COINS AND PAPER MONEY:

A. Purchases/receipts by licensees.

1. Coins have no distinguishing characteristics that separate them from other coins of the same mintage, and although paper money is serial numbered, those serial numbers are so seldom known by their last possessor that paper money is effectively indistinguishable from other paper money of the same denomination. Furthermore, unlike coins made of precious metals, paper money seldom carries any value significantly beyond the face value of the bill, and when stolen is usually used directly as cash and not sold to a currency dealer. Accordingly, coins or paper money brought in by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a single

transaction do not need to be itemized individually, but rather may be recorded/reported in bulk.

2. Coins or paper money brought in to a pawnbroker or secondhand dealer by an individual (pawner/seller) for sale, barter, trade, pledge or pawn during a transaction shall be associated with the person (pawner/seller) who brought the article in. The licensee shall record/report the following information for each such transaction:
 - a. The name, current address and date of birth of the pawner/seller.
 - b. A digital photographic or scanned image of a photo ID card of the pawner/seller, sufficiently clear to allow the information on the ID to be read. The photo ID must be a currently valid (not expired) card issued by a government entity of the United States, and must include the pawner/seller's first and last name, current address, date of birth, and physical descriptors.
 - c. The date and time of the transaction.
 - d. The quantities and types of coins or paper money present. If coins are all of the same type, they shall be reported by either quantity or weight, and type (e.g., 5 Morgan silver dollars, 25 buffalo nickels, 5 lbs. of wheat pennies, etc.). If coins are from a collection, a description of the theme of the collection (e.g., Bicentennial coins, state quarters, etc.) along with the number of coins shall be provided. If coins represent an accumulation of disparate coins with no overall theme, a generic description of the type and quantity of coins shall be provided (e.g., approximately 200 U.S. coins of miscellaneous dates and denominations, approximately 100 foreign coins from various countries, etc.). Paper money shall be reported by quantity and type (e.g., 25 U.S. \$5 silver certificates, etc.).
3. As a photograph of coins or paper money conveys no more information than can be obtained from the written descriptions required by subsection (7)a.2.d. of this section, no photographs of coins or paper money are required.

B. Sales by licensees.

1. Licensees do not need to record/report any information pertaining to the sale of coins or paper money to other individuals or businesses.

3-32-8: PAWNBROKERS: EMPLOYMENT OF PERSONS UNDER SIXTEEN:

No pawnbroker shall permit any person under the age of sixteen (16) years to take pledges in pawn for him or her.

3-32-9: PROHIBITED TRANSACTIONS:

- A. No pawnbroker or secondhand dealer, in the course of conducting business, shall receive any articles for pawn, pledge, advancement of money, loan, resale, or personal use from:
 1. Minors who are under eighteen (18) years of age.
 2. Any person appearing to be intoxicated or under the influence of drugs or alcohol.

3. Any person known to the pawnbroker or secondhand dealer to have been convicted of theft, residential burglary, burglary, home invasion, vehicular invasion, armed robbery, robbery or electronic fencing under the laws of the State of Illinois, or the equivalent laws of any other state. A peace officer may provide such criminal conviction information to a pawnbroker or secondhand dealer, and a pawnbroker or secondhand dealer may also access the Leads-Online "No Buy" list prior to making a transaction to ensure that the prospective pawner/seller has not been convicted of any such crime.
 4. Any person bringing such articles to the premises in a shopping cart.
 5. Any person presenting a serial numbered non-scrap/junk article from which the serial number has been removed or obliterated.
- B. In the event that any of the above enumerated persons shall attempt to conduct a prohibited transaction, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so, or otherwise as soon as the person has left the business.

3-32-10: REPORT OF FALSE/FICTITIOUS/FORGED/ALTERED ID CARD:

In the event that a person seeking to sell or pawn any item presents to the owner/operator/employee of a pawn or secondhand shop what is reasonably believed to be a false/fictitious/forged/altered ID card, a representative of that business shall notify the police department of the incident while the person is still present in the business if safe to do so, or otherwise as soon as the person has left the business.

3-32-11: REPORT OF LOST OR STOLEN ARTICLES TO POLICE:

Every pawnbroker or secondhand dealer who shall receive or be in possession of any goods, articles or things under circumstances which would lead a reasonable person to conclude that they have been lost or stolen, or which have been alleged or supposed to have been lost or stolen shall immediately notify the police department of such receipt and, forthwith on demand, exhibit the same to any member of the police department.

3-32-12: RETURN OF STOLEN PROPERTY:

When any person is found to be the owner of stolen property which has been pawned or purchased by a secondhand dealer, such property shall be returned to the owner thereof without the payment of the money advanced by the pawnbroker or paid by the second dealer thereon or any costs or charges of any kind which the pawnbroker or secondhand dealer may have placed upon the same.

3-32-13: INSPECTION OF PREMISES BY POLICE:

The Police Chief or any officer designated by him shall have general supervision over all pawnbrokers and secondhand dealers, and shall also have power to inspect their respective places of business and all articles or things kept therein, whenever he or she shall deem it necessary to do so.

3-32-14: HOURS OF OPERATION:

No business licensed under this article shall purchase or accept any goods, articles or things whatsoever, from any person outside of posted business hours.

3-32-15: SOLICITATION OF ARTICLES:

No person licensed under this article shall be permitted to solicit business of any nature upon any street or public highway in the village.

3-32-16: JUNK/SCRAP COLLECTION VEHICLES:

- A. Every motor vehicle licensed under this article shall be permanently and conspicuously marked on both sides and the rear of the vehicle with the name of the licensee, along with the street address and phone number of his place of business. If the licensee of a junk/scrap collection vehicle is not a licensed secondhand dealer or has no fixed place of business, then his name along with the street address and phone number of his residence shall be permanently and conspicuously marked on both sides and the rear of the vehicle.
- B. Every applicant for a junk/scrap collection vehicle license must show proof of insurance and a safety sticker for 2nd division vehicles as required under the Illinois Vehicle Code, and all junk/scrap collection vehicles licensed under this section shall meet all requirements for 2nd division vehicles under the Illinois Vehicle Code. Violations of Illinois Vehicle Code requirements shall be enforced by the police department on an Illinois Citation and Complaint (ICC) form, commonly known as a traffic ticket.

3-32-17: LICENSE REQUIRED:

- A. No person, either as owner, manager, lessee, officer or agent, or in any other capacity, shall operate or permit to be operated as a pawnbroker or secondhand dealership without first having obtained a license from the village to do so. The requisite fee shall accompany all original or renewal applications. Each license shall commence on January 1 and shall terminate on December 31 next following the date of issuance. Failure or neglect to pay the requisite license fee in a timely manner shall be cause for denial of issuance or nonrenewal or revocation as the case may be.
- B. It shall be unlawful for an individual or business entity to conduct business in the village using the word "pawn", "pawnshop" or "pawnbroker" in connection with a business or to transact business in the village in a manner which has a substantial likelihood of misleading the public by implying that the business is a pawnshop, without first obtaining a license from the village as provided in this chapter.

3-32-18: APPLICATION:

An application for a license required by this chapter shall be made in writing under oath to the village clerk on a form prescribed by the village clerk. All references to the village clerk in this chapter shall be deemed to include the village clerk or his or her authorized designee. Each application shall include, but not be limited to, the following information:

- A. The name of the individual, partnership, corporation or association applying for a license.
- B. The residence, phone number, date of birth and driver's license number of the applicant or partners; or, if a corporation or association, the residence, phone number and driver's

license number of the officers and all shareholders owning more than five percent (5%) of the outstanding shares of stock.

- C. The location for which the license is requested.
- D. Whether the applicant, its partners, officers or listed shareholders have been convicted of any criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.
- E. Whether the applicant, its partners, officers or listed shareholders have held a license or had an interest in a license issued by the village or any other jurisdiction regulating the purchase or sale of used property revoked for cause, and, if so, list the date of revocation and jurisdiction.
- F. A statement whether the applicant has made application for a similar or other license on premises other than described in the application, and the disposition of such application.

3-32-19: FEES:

The applicant for a pawnbroker or secondhand dealer license required by this chapter shall pay the village clerk at the time of filing an application a license fee of two hundred dollars (\$200.00) per calendar year or part thereof. Should the license be denied, the license fee shall be refunded to the applicant.

3-32-20: INVESTIGATION OF APPLICANT

Upon receipt of an application for a license under this chapter, the village clerk shall cause a copy thereof to be sent to the chief of police and the community development director both of whom shall report back to the village clerk in thirty (30) days whether the applicant is in accordance with applicable village codes. The investigation by the chief of police shall include, but not be limited to, conducting a criminal history background investigation on the applicant, its partners, officers or listed shareholders owning more than five percent (5%) of the outstanding shares of stock.

3-32-21: BOND PREREQUISITE TO ISSUANCE:

Every applicant for a license under this chapter shall file with the village a license and permit bond in the penal sum of one thousand dollars (\$1,000.00), approved by the village attorney, with the village as obligee, conditioned for the faithful and due performance of the provisions of this chapter and the laws of the state concerning the operation of the licensed business, and the payment of all fines and penalties by reason of the violation thereof.

3-32-22: ISSUANCE:

Upon receipt of the report from the chief of police and community development director, the village clerk shall issue the license requested under this chapter unless it is determined that:

- A. The applicant is under the age of eighteen (18).
- B. The location requested is not in a permanent structure.
- C. The applicant plans to operate as an "itinerant merchant" as that term is defined in section 3-9-1 of this title.

- D. The applicant, its partners, officers or listed shareholders have been convicted of or had pled guilty to any offense related to theft, burglary, or purchasing or receiving stolen items under the laws of this state, city or any other jurisdiction within the past ten (10) years, or have forfeited a bond to appear in court to answer for charges for such offenses during such time.
- E. The location requested and structure to be used would not comply with all applicable laws including, but not limited to, the Oswego zoning ordinance.
- F. The applicant, its partners, officers or listed shareholders have held a license or had an interest in a license issued by the city or any other jurisdiction regulating the purchase or sale of used property which was revoked for cause.
- G. The applicant, its partners, officers or listed shareholders has knowingly furnished false or misleading information or withheld relevant information on any application for a license required by this chapter or any investigation into any application.
- H. The application has not been properly completed and/or the licensing fee required in this chapter has not been paid.
- I. An investigation reveals that the applicant has falsified information on the application.
- J. There is an outstanding code violation on the proposed premises, unless the applicant can provide satisfactory evidence that the condition will be corrected within a reasonable time, and the conduct of the business pending the correction of such condition will not endanger the public health, safety or welfare.
- K. Failure to comply with other provisions of this chapter or applicable requirements of law.

3-32-23: PENALTY PROVISION:

Any person found liable/guilty by a preponderance of the evidence of a violation of any paragraph of this chapter in an administrative/judicial hearing shall be subject to a class IV fine, plus applicable hearing costs, as provided in subsection 1-4-3(G) of this code.