

Proposed Local Law Number 8 Of 2015

County Of Ulster

A Local Law For The Licensing Of Persons In The Business Of Purchasing Secondhand Articles

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

SECTION 1. LEGISLATIVE INTENT AND PURPOSE.

The Ulster County Legislature finds that pawnbrokers, precious metal dealers and secondhand goods dealers potentially provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly.

The Ulster County Legislature also finds that consumer protection regulation is warranted in transactions involving pawnbrokers, precious metal dealers and secondhand goods dealers. The purpose of this Local Law is to prevent these businesses from being used as facilities for the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of Ulster County.

SECTION 2. DEFINITIONS.

For the purpose of this Section, the following words shall mean:

Second-hand Goods Dealer means a person engaged in the business of buying second-hand goods of any kind, including but not limited to coins, gold, silver, jewelry, metals, guns, tires, car batteries, and other automobile accessories, but excepting goods and merchandise taken as part or full payment for new goods and merchandise.

Junk means old or scrap copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste, or junked, dismantled or wrecked farm or construction machinery or parts thereof, iron, steel and other old scrap ferrous or non-ferrous material.

Billable Transaction shall mean every reportable transaction conducted by a secondhand dealer, regardless of the number of items received in that transaction.

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License No person shall, within the County of Ulster establish, engage in or carry on, directly or indirectly, the business of dealing in secondhand precious metals, gems, coins, gold, silver, jewelry, metals, guns, tires, car batteries, and other automobile accessories either separately or in connection with some business, without first having obtained and having in full force effect a license provided herein.

Bona Fide Antique Dealer shall mean any person, corporation, or business that has on file with the County of Ulster and or the State of New York a certificate indicating the establishment of Such Antique Business, in addition to filing tax returns as required by law for said antique business for each and every fiscal year in business.

SECTION 3. EXCEPTIONS.

The following business purchases shall not be covered by this Section:

1. The purchase of a motor vehicle as scrap to be dismantled or destroyed where the certificate of title is or has been mailed or delivered to the Department of Motor Vehicles for cancellation pursuant to New York State Vehicle and Traffic Law 1224.
2. Used car sales involving vehicles with registered titles registered through the Department of Motor Vehicles.
3. Purchased from occasional "Garage" or "Yard" sale of personal property conducted from a residence.
4. Estate sale or farm auction held at a decedent's residence.
5. Auction sales.
6. The purchase of used books where no single book has a value of greater than \$50.00.
7. Any purchase of property from merchants, manufacturers, or wholesale dealers having an established place of business, or of goods purchased at open sale from any bank or from stock, or of goods purchased at salvage. Such property and goods must

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be accompanied by a bill of sale or other evidence of open or legitimate purchase, which must be shown to any peace / police officer.

8. Recycling center, e.g. aluminum recycling center.

9. Any purchaser of property at a flea market or swap meet sponsored by a local non-second-hand goods dealer or pawnbroker, or by a community group, and conducted on property with the consent of the owner of the property; where such purchaser is not otherwise required to be licensed by this Section.

SECTION 4. LICENSING OF DEALERS IN SECOND-HAND GOODS.

1. License Required. It is unlawful for any person to engage in the business of dealing in second-hand goods without a Second-Hand Goods Dealer license under this Section.

2. License Application. Dealer in Second-Hand Goods. Any applicant for licensing as a dealer in second-hand goods shall specify in his/her application the type of goods, wares, or merchandise which he/she desires to deal in the license, and, if issued, shall limit the dealer to the type of goods, wares, or merchandise specified in the application.

3. Business at Only One Place. Any license issued under this Section shall authorize the licensee to carry on such business only at the place designated in such license, excepting the estimating of the value of goods for purchase and the picking up of goods.

4. Criminal Record. No license shall be issued to any person previously convicted in the past ten years of a felony, as defined in the New York State Penal Law.

5. License Fee. An application fee of \$100.00 shall accompany each application for license as a dealer in secondhand articles. The license shall be valid for two (2) years from the date of issuance. The renewal fee will be \$100.00. There will be a \$50.00 fee for duplicate license.

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6. Fee Schedule. Place of Payment. License fees may be subject to change by Resolution of the Legislature. License fees shall be collected by the Ulster County Sheriff's Office.

7. Posting of License. Every Second-Hand Goods Dealer shall prominently post his/her license in a conspicuous location at his/her place of business.

SECTION 5. RECORDS REQUIRED.

1. Every Second-Hand Goods Dealer shall report transactions to the Ulster County Sheriff's Office when ever asked to do so. The transaction report shall accurately account for the description of the thing sold, purchased, traded, or pledged. All entries will be consecutively numbered transactions, legibly written in English. It shall also record the amount of the transaction, the identity of the person making the transaction, and any other relevant information as required. The identification of the person completing the transaction shall be made by recording the State driver's license number or ID number, full name, date of birth, address, and phone number on the transaction form or receipt. The receipt must also contain the signature of the person identified in the transaction. The description of any item of personal property shall include serial numbers, make, model, year or such other identification numbers where possible. Each transaction is to include the date and time of the acquisition.

2. Inspection of records. The records must at all reasonable times be open to inspection by Law Enforcement. Records of all transactions shall be retained for at least five (5) years from the date of transaction. Entries of digital images, color photograph or color video recording, shall be retained a minimum of ninety (90) days.

3. Receipts Required. On receipt books every such dealer in second-hand goods, purchasing or receiving in deposit for a loan any article or personal property shall give to the person selling or depositing such article or personal property a receipt with a description of the item.

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4. Identification Requirements. Each person pawning, pledging, or selling items in an establishment licensed pursuant to this Section shall identify himself/herself as provided herein to the licensee or licensee's agent accepting such pawn, pledge, or sale. Neither the licensee nor any of his/her agents shall transact any business with any person who fails to identify himself/herself as provided herein. Identification shall be made as follows:

a. By showing a valid driver's license or non-qualification certificate which was duly issued to the person presenting it by the State of New York. The licensee or agent shall stamp or record the information contained on face of said driver's license or non-qualification certificate on the record or;

b. In the event the person has no driver's license or non-qualification certificate, then by a showing of some other form of identification issued to him/her by a governmental body or a recognized organization which shows either his/her picture or a physical description of him/her or both. The licensee or agent shall record the type of identification, and any identifying number on the identification, and the name and physical description on the identification in the record required in Sub 1 of this article.

c. By a statement by the licensee that said person is personally known to the licensee and a recording of his/her full name and date of birth.

The licensee or licensee's agent transacting the pawn, pledge or sale shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification present with the physical features and signatures of the person presenting such identification and shall not transact any business with any person who appears to be presenting false identification.

SECTION 6. REPORTABLE ITEMS TO ULSTER COUNTY SHERIFF.

Except for items received through consignment, or for which payment in full is made with a credit or voucher redeemable for merchandise from the dealer, every dealer shall report weekly, to the Ulster County Sheriff's Office, any reportable transaction in which one (1) or more of the following items is received, regardless of the

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purchase price, asking price if consigned or brokered, or value attributed to it if accepted in trade:

1. Items containing ¼ ounce or more of precious metals.
2. Items containing precious gems.
3. Any of the following items for which the dealer paid one-hundred dollars (\$100.00) or more, in cash or other consideration, or which the dealer intends to offer for sale, or broker, for two-hundred fifty dollars (\$250.00) or more.
 - (a) Electronic audio equipment.
 - (b) Electronic video equipment.
 - (c) Musical instruments.
 - (d) Photographic and optical equipment.
 - (e) Electronic office equipment.
 - (f) Computers, monitors, printers, scanners, and computer hardware.
 - (g) Cellular telephones
 - (h) Outboard motors, inboard drives, and powered golf carts.
 - (i) Electric and gas powered yard or garden equipment and tools.
 - (j) Electric, pneumatic or hydraulic powered construction or mechanic's equipment or tools.
 - (k) Artist signed or artist attributed works of art.

SECTION 7. UNLAWFUL ACTS AND RESTRICTIONS.

1. Dealing with Minors, etc. It is unlawful for any dealer in second-hand goods to purchase or receive on deposit any personal property, goods, wares, merchandise, article or thing, from persons of unsound mind or intoxicated persons, or from persons under 18 years of age.

2. Minors; Prohibitions. No person under the age of 18 years shall sell, pawn, or pledge any personal property or other valuable thing with any person licensed to do business under this Section. It is unlawful for any person under the age of 18 years to represent to any person licensed under the provisions of this Section, at the time of his or her selling, pawning, attempting to pawn, or pledging of any personal property, that he or she is 18 years of age or older.

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3. Misconduct of Junk or Second-hand Dealers. It is unlawful for Second Hand Goods Dealers to:

- a. Have goods in his/her possession and refuse to permit a law enforcement officer to examine them during usual business hours; or
- b. Purchase property from a person under lawful age.
- c. It shall be unlawful for any dealer in secondhand precious metals or gems to sell or dispose of any secondhand items, precious metals or gems until the expiration of (15) fifteen business days after the acquisition by such dealer of said secondhand items, precious metals and gems.
- d. It shall be unlawful for a dealer in secondhand goods to continue business after his / her license has been suspended/revoked or expired.
- e. It shall be unlawful to cause, allow or approve of the blockage or obstruction from view of the consumer any scale, machine or weighing device used to calculate the value of precious metals or gems.
- f. It shall be unlawful for any secondhand dealer to destroy or alter in any way any precious metal or gems as so to make it unidentifiable within fifteen days after the acquisition by said dealer.
- g. Failure to comply with any subdivision or provision of this local law could result in the suspension / revocation of a licensee and or criminal prosecution.

SECTION 8. ENFORCEMENT.

1. Enforcement Authority. This Section shall be administered and enforced by the Ulster County Sheriff's Office.

2. Misdemeanor Penalty. Any person, firm, or corporation who shall violate any of the provisions of Articles D and E hereof or who shall make any false statement in any license or record required to be submitted under the provisions hereof, shall be guilty of a Class A Misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a period not exceeding one (1) year, or by both such fine and imprisonment. A failure to comply with any other Article of this Local Law constitutes a violation which is punishable by a fine not exceeding two hundred fifty dollars (\$250) or imprisonment not exceeding (15) fifteen days or by both fine and imprisonment.

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3. Suspension and Revocation of License. Any license issued pursuant to this Section may be suspended for up to sixty (60) days or revoked for good causes by the Ulster County Sheriff's Office. Written notice shall be given to the licensee of the Sheriff's intent to suspend or revoke a license. A licensee shall have ten (10) days from the receipt of said notice to appeal the proposed suspension or revocation to the Sheriff's Office for a hearing of the matter before a committee of five hearing officers selected by the Chairman of the Legislature (1 member), the Ulster County Sheriff (two members) and the District Attorney (2 members) for the purpose of hearing the appeal. If the appeal is timely noted, all action shall be stayed pending the hearing. Written notice of the hearing shall be served upon the licensee at least twenty-one (21) days prior to the date of the hearing. Any licensee whose license is suspended or revoked may appeal such order to the Supreme Court of the State of New York for a review by proceeding under Article 78 of the Civil Practice Laws and Rules, provided that the proceeding is commenced within thirty days after the filing of the decision in the Office of the Ulster County Sheriff. An appeal will not stay implementation of the Sheriff's order.

a. For the purpose of this Section, "good cause" shall include, but not limited to:

1. Conviction of licensee or any of his/her employees of any crime relating to the operation of a pawnbroking or second hand goods business.
2. Violations by the licensee or his/her employees of any of the provisions of this Section or any other Section of the County Local Law or Statute relating to the operation of a pawnbroking business or second-hand goods business.
3. Failure to cooperate fully with any law enforcement investigation.
4. Falsely stating any material fact on the license application.
5. Submitting a false or incomplete record to the Police.

SECTION 9. SEVERABILITY

In the event that any portion of this local law is found to be invalid, such finding will not have any effect on either the remaining portions or applications of this local law or any provisions of the Ulster County Charter, which shall remain in full force and effect.

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SECTION 10. EFFECTIVE DATE

The effective date of this Local Law shall be on January 1, 2016.