

ORDINANCE NO. 9

REGULATION OF PAWNBROKER ACTIVITIES

WHEREAS, the Board of Commissioners of Flathead County is authorized, pursuant to Sections 7-5-102 through 7-5-107 and 7-21-2120, M.C.A., to adopt an ordinance to regulate the activities of pawnbrokers located outside the boundaries of an incorporated city or town in Flathead County; and

WHEREAS, the Board of Commissioners of Flathead County recognizes the benefits to the citizenry and law enforcement that such regulation may provide

NOW, THEREFORE, BE IT RESOLVED that, effective 30 days after the second and final adoption, the following Ordinance shall be in force and effect in Flathead County.

Section One: Definitions

A. **“Pawnbroker”** means a person or agent engaged in conducting or carrying on the business of loaning money on the person's own behalf or for another, upon personal property, personal security, pawns, or pledges, or engaged in the business of purchasing articles of personal property and reselling or agreeing to resell the articles to the vendors or their assigns at prices agreed on at or before the time of purchase.

B. **“Customer”** means any person or entity who, within the County, deposits, pledges, sells, trades, barter or exchanges personal property to a pawnbroker as set forth in this chapter.

D. **“Within the County”** means located within the County of Flathead, but outside the boundaries of an incorporated city.

Section Two: Registration

A. Any Pawnbroker who engages in the activities set forth under the definition of Pawnbroker in Section One of this Ordinance shall keep a legible register or record of all pawns, purchases, and sales, along with:

1. A description of each article, including, but not limited to, identification number, serial number, model number, brand name or other identification marks on such article, and a description by weight and design of precious and semi-precious metals or stones.
2. The Customer's name and date of birth and documentation from one or more of the following:

- A. valid state identification card;
- A valid state driver's license;
- A military identification card;
- A valid passport;

An alien registration card; or
An official identification document lawfully issued by a state or federal government.

3. The current street address, city, state and zip code of the customer's residence.

B. All transactions shall be kept in a numerical register in the order in which they occur, which register shall clearly document the Pawnbroker conducting the transaction, the purchase price or other monetary amount of the transaction, the date, time and place of the transaction, and an accurate and detailed account and description of each item of tangible personal property involved, including, but not limited to, any and all trademarks, identification numbers, serial numbers, model numbers, owner-applied numbers, brand names or other identifying marks on such property.

Section Three: Exceptions and Exclusions

Pawnbrokers are excluded from uploading items into the selected database per Section Seven of this Ordinance if the item meets one or more of the following criteria:

1. The item purchased by the Pawnbroker is under \$20.00 in retail value except if the items are purchased in a quantity of 25 items or more, such as 25 or more DVDs, CD's etc. Jewelry of 25 items or more in quantity shall be photographed and the photographs maintained by the purchaser for a period of one year and/or the photo uploaded to the database;
2. The item is used adult or used children's apparel with a retail value of less than \$20.00;
3. The seller is a known customer of the dealer and had contracted with the business prior to the property being presented for sale such as estate sale purchase. The exception does not include over-the-counter contracted purchases;
4. The property was obtained by a bidding process through a reputable, licensed auction house;
5. The property is brokered with the business;
6. The acquisition for resale of any goods by a nonprofit corporation or nonprofit association recognized as such by the Internal Revenue Service or by a bona fide fraternal or bona fide religious organization or association; or
7. The acquisition for resale or trade of coins or of monetized bullion, or commercial grade ingots of gold, silver or other precious metals including, but not limited to, gold, silver, platinum, which ingot bears a stamp or other marking indicating or reflecting the government, governmental agency, private corporation, or banking institution issuing or producing the ingot. "Commercial grade ingots" is defined herein as 0.99 fine ingots of gold, silver or platinum, or 0.925 fine sterling silver art bars and medallions, provided

that the ingots, art bars and medallions are marked by the refiner or fabricators as to their assay fineness.

Section Four: Examination

No person keeping records as required in Section Two shall fail, neglect, or refuse to exhibit the same to any law enforcement officer or other person when requested to do so, or refuse to permit any law enforcement officer or other person to inspect any such article purchased or received.

Section Five: Duration articles must be held

A Pawnbroker shall hold all purchases made through a purchase transaction for a period of fourteen (14) calendar days, during which time the property shall not be disposed of or altered from the form in which it was received. The holding period shall begin on the day the purchase transaction is uploaded into the law enforcement designated database.

Section Six: Internet subscription requirements

Every Pawnbroker shall own, maintain, and operate a computer system with internet access. Every pawnbroker shall file all records electronically directly to the Flathead County Sheriff's Office and/or to an internet subscription service designated as an agent of the Flathead County Sheriff. The pawnbroker dealer shall enter and upload all information from its database of records regarding contract for purchase, pledges, and purchase transactions by no later than 5:00 PM on Friday of each week. If the transactions have not been entered into electronic database according to this section, the Flathead County Sheriff shall stop any further transactions by the operator, until the operator is in compliance. The Flathead County Sheriff may for good cause shown grant an operator a written extension to the deadline.

Section Seven: Requirement for records

A. All records required to be kept under this Ordinance must be kept in the English language in a legible manner and shall be preserved and made accessible for inspection for a period of three years after the date of redemption or forfeiture and sale of the property.

B. Upon demand of any law enforcement officer or agent, the Pawnbroker shall produce and show any tangible personal property given to the Pawnbroker in connection with transaction described in Section One of this Ordinance. The Pawnbroker's database shall list the date of the pawning or purchasing, date on which each contract for purchase was canceled, whether it was redeemed or forfeited or sold, the name of the person by whom the article was pawned or by whom re-purchased, and the amount loaned on or paid for the article. In the case of the sale of any article pawned or pledged, the Pawnbroker shall enter upon the register, the name of the purchaser, the time of the sale, and the price paid for the article. Such records shall be made available to any law enforcement officer or agent upon request.

Section Nine: Declaration of ownership

A. The Pawnbroker shall, at the time of making the loan contract for purchase or purchase transaction, obtain a written declaration of ownership from the Customer stating whether the property that is the subject of the transaction is solely owned by the Customer and, if not solely owned by the Customer, the Customer shall attach a power of attorney from all co-owners of the property authorizing the Customer to sell or otherwise dispose of the property.

B. The Pawnbroker shall require the Customer to sign, in their presence, the Customer's name on the declaration of ownership.

Section Ten: Penalties

Unless otherwise stated herein, any person or entity violating any part of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or six (6) months in the County jail, or both, unless otherwise specified in this Ordinance. Each act in violation of this Ordinance shall be considered a separate violation.

All fines collected under this Ordinance shall be paid into the County Treasury and shall be used to pay fees, salaries, costs or expenses for the enforcement of this Ordinance or as otherwise seen fit.

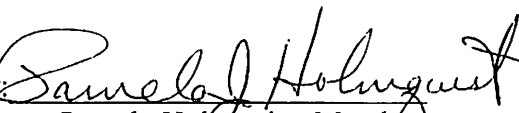
Section Eleven: Severability


If any provision of this Ordinance is held to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions. To this end provisions of this Ordinance are to be severable.

DATED this 3rd day of April, 2017.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: 
Gary Krueger, Chair

By: 
Pamela Holmquist, Member

By: 
Philip Mitchell, Member

