

**ORDINANCE NUMBER 13-05
OF THE CITY OF FRANKLIN, INDIANA**

**An Ordinance Repealing and Replacing
Section 1 – Pawnbrokers of Ordinance 83-20 and as amended per Ordinance 96-13**

WHEREAS, the Common Council of the City of Franklin, Indiana, finds that the municipal regulations relative to pawnbrokers should be revised in order to more appropriately govern and regulate the business of pawnbrokers:

WHEREAS, the Common Council finds that Ordinance No. 83-20 and Ordinance No. 96-13 requires certain amendments and revisions;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF FRANKLIN, INDIANA, ORDAINS AND ENACTS THE FOLLOWING:

1) Pawnbrokers

a. **Definitions:** For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. Cash for Gold: Any person engaged in the business of purchasing valuable items containing precious metals or stones for the exchange of cash or cash in the form of a check, excluding the purchase of precious metals or stones at wholesale.
2. Customer:
 - a. Any person who as a part of his or her regular business deposits or pledges any personal property or thing of value with a licensee, on condition of obtaining or recovering the property back again at a stipulated price, or any person who applies for sale of or sells any personal property or thing of value to a licensee;
 - b. Any person who shall be paid an advance on the consignment of any merchandise to be sold by a licensee;
 - c. Any person who shall sell pawn tickets to a licensee so that the licensee may redeem and resell that merchandise;
 - d. Any person who shall renegotiate, with a licensee, a pawn loan between themselves and other licensee.
3. Licensee: Any person that has applied for or been issued a license regulated by this ordinance.
4. Minor: A person under eighteen (18) years of age.
5. Pawnbroker:
 - a. Any person who as a part of his or her regular business loans money on the deposit or pledge of any personal property or thing of value, on the condition of redelivering or selling the article back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness;

- b. Any person who as a part of his or her regular business practice shall buy pawn tickets from individuals so as to redeem and resell that merchandise;
 - c. Any person who shall as a part of his or her regular business renegotiate pawn loans between individuals and other pawnbrokers;
 - d. Any person who shall purchase precious metals or stones by or on behalf of a "Cash for Gold" or similar operation, excluding the purchase of precious metals or stones at wholesale;
 - e. This ordinance does not apply to used car dealers and retailers who take in partial consideration of the purchase of a new item a used item which is the same type merchandise they normally sell new.
6. Person: Any individual, limited liability company, sole proprietorship, partnership, trust, joint venture, corporation, unincorporated organization, or other form of entity, however organized.
7. Pledge: Personal property deposited with a pawnbroker as security for a loan.
8. Precious Metals or Stones: Any of several metals that have high economic value, including but not limited to silver, gold, and platinum; or containing gems including, but not limited to, diamonds, rubies, or emeralds.
9. Secondhand Dealer:
- a. Any person who as a part of his or her regular business buys or sells the following secondhand items: coins, currency, jewelry, comic books, trading cards, stamp collections, figurines or any item whose value increases over time;
 - b. This does not apply to used car dealers and retailers who take in partial consideration of the purchase of a new item a used item which is the same type merchandise they normally sell new;
 - c. This does not include pawnbrokers or "Cash for Gold" operations.
10. Transaction:
- a. Any sale, loan, pledge or deposit of any personal property or thing of value between a customer and a licensee as a part of the licensee's regular business;
 - b. Any advance payment on the consignment of any merchandise between a customer and a licensee;
 - c. Any sale of pawn tickets by a customer to a licensee for the purpose of redemption and resale of the pawned merchandise;
 - d. Any renegotiation of a pawn loan by a customer and a licensee of a pawn loan between the customer and any other licensed pawnbroker.

b. License Required

- 1. It is unlawful for any person to engage in the business of pawnbroker or Cash for Gold without first obtaining a license from the city clerk-treasurer and having complied with all current licensing requirements of I.C. 28-7-5-3 as amended.

c. License Fee

1. The annual fee for a license required shall be two hundred dollars (\$200.00) for each place of business of the licensee.
2. Licenses shall be valid beginning January 1 and will expire December 31 of each year.
3. Regardless of the date obtained, the annual license will expire December 31 of each year.
4. Annual renewal of licenses shall be obtained no later than January 31. Late renewals will result in tripling the annual fee.

d. License Application

1. All applicants for licenses shall first furnish to the city clerk-treasurer evidence of compliance with the requirements of Section E of this ordinance. Such evidence shall be in the form of a photograph (printed at a minimum of 3 in. x 5 in.) in which the installation of the recording device required by Section E of this ordinance is clearly visible and identifiable, in addition to such other written information as the city clerk-treasurer, in his or her discretion, may require.
2. All applications for licenses shall be supported by affidavits of at least three resident freeholders of the city stating that the applicant is of good moral character.
3. All applicants shall, as a condition for the granting of a license and on a portion of the application provided by the city clerk-treasurer, agree that in the event the applicant as licensee receives merchandise of any kind which is stolen, he or she claims no right, title or interest in or to the merchandise, and that upon request by law enforcement officers having jurisdiction over the location of his or her place of business, he or she will voluntarily surrender the merchandise to the possession of the investigating law enforcement agency who has reason to believe that the merchandise is stolen when given a receipt or notice of adverse claim for the same.
4. All applicants shall at the time of application or renewal show membership of the online reporting database used by the city police department. Refusal to participate may be grounds for denial of license or renewal of license.

e. Photographic/Video Recording Devices – Photographs Required

1. All licensees shall install and operate during the regular course of their business, photographic or video recording devices for use in recording each customer transaction.
2. Such devices shall be maintained in good operating condition and be permanently mounted in such a manner as to take a full front photograph or video of the head and shoulders of each customer as he or she completes each transaction. The licensee shall furnish sufficient lighting to insure that the photographic/video image is identifiable. No licensee shall accept any article as collateral, security, for purchase or for resale unless the licensee makes a photographic or video recording, as provided in this ordinance, of the person from whom the article is being received.

3. Every licensee under this ordinance shall keep photographic /video records of each customer transaction as official records on file at the place of business for a period of thirty (30) days from the date of the transaction. Photographic/video records will be accessible by date and number of pawn ticket as required under this ordinance and will be produced upon request to the city police department at all reasonable times when given a receipt for the same.

f. Unlawful Transactions

1. It is unlawful and an infraction of this ordinance for a licensee under this ordinance to receive any articles in the course of business from any person who is in an intoxicated condition, a minor, one who cannot produce a photographic identification card, or who is known or suspected by the licensee to have acquired and be disposing of such articles unlawfully.
2. No pawnbroker shall accept as collateral security or for purchase any property of the type given manufacturer's serial numbers or other identifying insignia unless such property shall have plainly visible thereon the manufacturer's serial number or other identifying insignia.

g. Record Book to be Kept

1. Every licensee under this ordinance shall keep a correct list in a book or computer program in which shall be legibly written an accurate description in the English language of all articles pawned and the amount of money loaned thereon; the time of the transaction; the name and address of the person pawning the articles; and the number of the pawn ticket issued therefore.
2. The records required to be kept by Section G of this ordinance shall be open to inspection at all reasonable times by the police or the city clerk-treasurer.

h. Card Record

1. In addition to the record book and photographic/video recorded transactions required by this ordinance, each licensee shall fill out a card, approved by the city police department, recording each article pawned.
2. Each card shall be filled out in its entirety, reflecting the following customer information: pawn ticket or transaction number; date and time of transaction; name and address (including city, state and zip code); government issued identification number; date of birth; customer's signature; a complete description of all items pawned, including serial numbers, model numbers, manufacturer's name, and purchase price; a right thumb print or any other specified finger if the thumb is missing. The thumb print and card information will be applied to the card in a manner approved by the city police department and will not be blurred or obliterated.
3. Precious metals or stones received as part of any transaction shall be photographed in the condition they are received. Photograph shall be of clear resolution, shall be retained and preserved (printed or digital) on the business premises for a period of one year from the date of the transaction and shall be made available to city police department upon request.

4. In addition to the card record, record of pawned articles from the previous business day must be reported by entering data through the use of the online reporting database used by the city police department before the hour of twelve noon of each day.
5. The card records must be kept at the place of business and shall be open to inspection at all reasonable times by the city police department.

i. Retention of Acquired Property

1. All property received by a licensee under this ordinance shall be held intact by the licensee for at least ten (10) days.
2. The licensee will keep the property in its possession for thirty (30) days or turn it over to the investigating law enforcement agency when given receipt or a notice of an adverse claim from said investigating law enforcement agency for the property. The property will be returned to the licensee subsequent to the expiration of the thirty (30) day period, provided that such a return of the property is consistent with all legal proceedings and court orders that might apply.

j. Confidentiality of Photographs

1. All photographs taken in accordance with the provisions of Section E of this ordinance and card records compiled in accordance with Section H of this ordinance shall be restricted, with respect to the access to such photographs and the use thereof, to law enforcement personnel for the purpose of investigations involving wanted persons and stolen property. Any use of the photographs by or for private individuals or their commercial concerns is expressly prohibited.

k. Revocation of License or Suspension

1. Any license issued under this ordinance may be revoked or suspended by the Board of Public Works & Safety by reason of a violation of any of the provisions set forth.
2. When the Board of Public Works & Safety hearing date is set, the licensee shall receive not less than ten (10) days written notice from the clerk-treasurer, which notice shall contain charges made, as well as the time and place when the hearing will be held.
3. At the hearing, the licensee will be entitled to a reasonable opportunity to be heard and shall have the right to be represented by counsel. Proceedings shall be conducted under oath.
4. The Board may revoke or suspend the license if found that:
 - a. the licensee has willfully violated or has been grossly negligent in violating this ordinance or any rule, order or guidance document adopted by the city, which includes reporting requirements, or any other state or federal law, regulation, or rule applicable to the business of a pawnbroker;
 - b. the licensee does not meet the licensing qualifications set forth in this ordinance; or
 - c. the licensee knowingly or intentionally made material misrepresentation to, or concealed material information from the city.

5. When a license is revoked or suspended, the city shall enter an order to that effect and notify the licensee of:
 - a. the revocation or suspension;
 - b. if a suspension has been ordered the duration of the suspension;
 - c. the procedure for appealing the revocation or suspension; and
 - d. any other terms and conditions that apply to the revocation or suspension, to include but not limited to, returning said license to the clerk-treasurer.

1. **Penalties**

1. Any violator of the ordinance shall be subject to a fine of One Hundred Dollars (\$100.00) per day up to an annual maximum of Two Thousand Five Hundred Dollars (\$2,500.00).
 2. The City may, through its legal department or other appropriate agency, seek a temporary restraining order and/or permanent restraining order against the offender in any court of competent jurisdiction.
 3. The City's remedies shall be cumulative and pursuit of one remedy shall not preclude another.
 4. Willful or intentional disregard of this ordinance shall entitle the City to collect from the violator its costs of attorney's fees, Court costs, and other reasonable expenses incurred by the City in obtaining a restraining order or other necessary remedy.
- 2) **Construction of Clause Headings:** The clause headings appearing in this ordinance have been provided for convenience and reference, and do not purport and will not be deemed to define, limit, or extend the scope or intent of the clauses to which the headings pertain.
- 3) **Repeal of Conflicting Ordinances.** The provisions of all other ordinances in conflict with the provisions of this ordinance, specifically Ordinance 83-20 and Ordinance 96-13, are of no further force or effect, and are now repealed.
- 4) **Severability of Provisions.** If any part of this ordinance is held to be invalid, such part will be deemed severable and its invalidity will have no effect upon the remaining provisions of this ordinance.
- 5) **Duration and Effective Date.** The provisions set forth in this ordinance become and will remain in full force and effect (until their repeal by ordinance) thirty (30) days after the passage and adoption of this ordinance by signature of the executive in the manner prescribed by Indiana Code §36-4-6-15,16.

Introduced and Filed on the 20 day of May, 2013. A motion to consider same on the First Reading or day of introduction was [not offered] [~~sustained by a vote of _____ in Favor and _____ Opposed~~], pursuant to Indiana Code § 36-4-6-13].

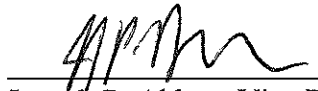
DULY PASSED on this 3 day of June, 2013 by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote 7 in Favor and 0 Opposed.

City of Franklin, Indiana, by its Common Council:

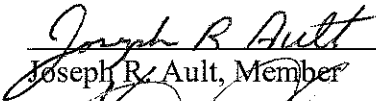
Voting Affirmative:




Steve Barnett, President



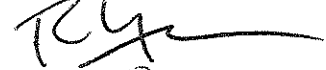
Joseph P. Abban, Vice President



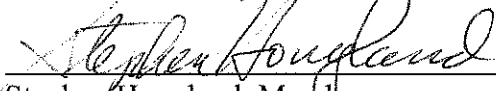
Joseph R. Ault, Member



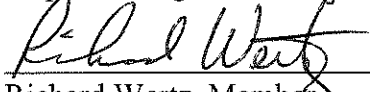
Kenneth Austin, Member



Robert Henderson, Member



Stephen Hougland, Member



Richard Wertz, Member

Voting Opposed:

Steve Barnett, President

Joseph P. Abban, Vice President

Joseph R. Ault, Member

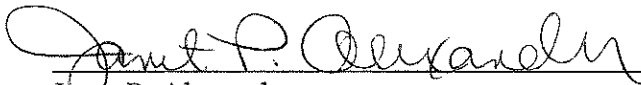
Kenneth Austin, Member

Robert Henderson, Member

Stephen Hougland, Member

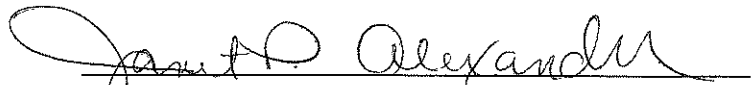
Richard Wertz, Member

Attest:



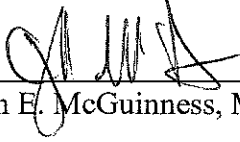
Janet P. Alexander,
City Clerk Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana § 36-4-6-15, 16 this 4 day of June, 2013 at 12:30 o'clock P.M.




Janet P. Alexander
City Clerk Treasurer

This Ordinance having been passed by the legislative body and presented to me was Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16a)(1) Vetoed pursuant to Indiana code § 36-4-6-16(a)(2), this 7 day of June, 2013 at 11 o'clock A.M.



Joseph E. McGuinness, Mayor

Attest:



Janet P. Alexander,
City Clerk Treasurer

Prepared by:

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