

**A RESOLUTION AND ORDINANCE OF
FORSYTH COUNTY, GEORGIA, TO REGULATE AND LICENSE
PAWNBROKERS AND PAWN SHOP ESTABLISHMENTS IN FORSYTH
COUNTY**

Ordinance No. 96

A Resolution and Ordinance by the Board of Commissioner of Forsyth County, Georgia, enacting Forsyth County Ordinance No. 96, Pawn Shop and Pawnbroker Ordinance.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November, 1982, and effective July 1, 1983, provides in Article IX, Section IV, Paragraph II thereof, that the governing authority of the county may adopt local legislation;

WHEREAS, O.C.G.A. § 44-12-135 specifically contemplates that local governments may enact local laws specifically regulating pawnbrokers, and that such local laws are cumulative to those requirements of O.C.G.A. § 44-12-130, et.seq.;

WHEREAS, the Board of Commissioners of Forsyth County, Georgia deems it necessary to amend a previously adopted ordinance regulating and licensing pawnbrokers and pawn shop establishments in order to protect and serve the health, safety and welfare of the citizens of Forsyth County, Georgia, to aid and assist in the recovery of stolen property, and to aid and assist local law enforcement in fulfilling their public safety functions; and

WHEREAS, appropriate notice and hearings on the amendment contained herein have been carried out,

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Board of Commissioners of Forsyth County, Georgia, and it is hereby resolved and ordained by the authority of same that Ordinance Number 96, known as the “Forsyth County PAWN SHOP AND PAWNBROKER ORDINANCE,” is hereby amended as follows.

ARTICLE I –GENERAL

Sec. 96-1. Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section or in O.C.G.A. § 44-12-130, except where the context clearly indicates a different meaning.

Pawn or *Pledge* means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the power of sale upon default.

Pawn transaction means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods may be redeemed or repurchased by the pledgor or seller for a fixed price within a fixed period of time.

Pawnbroker means any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufactured or licensed dealers as part of or in conjunction with the business activities described in this ordinance.

Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn, consignment or exchange, any goods, wares, merchandise, or any kind of personal property whatever, as security for the repayment of money lent thereon.

Sec. 96-2. Licenses required for operation; general policies and purposes.

- (a) Pawnbrokers may operate only after the issuance of a license for such operation by Forsyth County and only in the manner permitted by such license. Pawn or pledge transactions may only occur through a licensee who complies with the rules and regulations of this ordinance and with the licensing, regulatory and revenue requirements of the State of Georgia.
- (b) All licenses are a mere grant or privilege subject to all terms and conditions imposed by this ordinance and State law and subject to being revoked by the Forsyth County Board of Commissioners.
- (c) Each licensee of the County shall display the license issued under this ordinance prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.

- (d) The purposes of this ordinance include, but are not limited to, the following:
 - (1) Compliance with State law;
 - (2) Prevention of pawn or pledge transactions by unfit persons; and
 - (3) Protection of the public health, safety, and general welfare.

Sec. 96-3. Qualifications for Issuance of License.

Any person who desires to obtain a license for the operation of a pawnshop must meet the minimum qualifications set forth in this section. If the applicant is a partnership, each partner must meet the qualifications of any individual license and must make sworn statements of these qualifications as part of the applications process. If the applicant is a corporation, the majority stockholder and each principal officer of the corporation must meet the qualifications as part of the applications process.

- (a) No license shall be granted to any applicant who is not a citizen of the United States.
- (b) No license shall be issued to an applicant who is under the age of twenty-one (21).
- (c) All persons filing an application for a pawnshop license will be required to complete a waiver in order for the applicant's criminal history to be obtained.
- (d) No license shall be issued under this ordinance to any person, partnership or corporation for pecuniary gain where any individual having an interest either as owner, partner, principal stockholder, or licensee, such interest being direct or indirect, beneficial or absolute, or his spouse, shall have been convicted or shall have taken a plea of nolo contendere within five years immediately prior to the filing of the application for any felony or misdemeanor of any State or of the United States. For purposes of this section, the term "conviction" shall include an adjudication of guilty or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime. Where the violation is for a misdemeanor, forfeiture of bond, or where there is a plea of nolo contendere, the Board of Commissioners may, in its discretion, waive such violation as a disqualification.
- (e) No license shall be issued where the applicant has had any pawnshop license issued by any county, municipality or other governmental subdivision suspended or revoked.
- (f) No license shall be issued for a location that is not in compliance with any federal, state, or local regulation including, but not limited to, a state certificate of occupancy, a Forsyth County certificate of occupancy, and the Forsyth County Unified Development Code.

- (g) No license shall be issued where the applicant has supplied false information in the license application or where any required fee has not been paid by such applicant, including any fees or assessments owed to other departments and/or divisions of Forsyth County.

Sec. 96-4. License Application

- (a) *Required.* All persons or entities, prior to beginning the business of operating a pawnshop, shall first file an application with the Forsyth County Sheriff's Office to obtain a license to conduct such a business. All applications shall be in writing on forms provided by the Forsyth County Sheriff. All applications shall be completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths.
- (b) *Contents.* All persons desiring to obtain a license required under this ordinance shall make written application for such privilege, and shall supply such information as may be required and such application shall be sworn to by the applicant or agent thereof.
- (c) *Failure to furnish required information.* All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person(s) who are considered relevant in the ascertainment of facts relative to such license, as may be requested by the Forsyth County Sheriff's Office or the Forsyth County Administrator. The failure to produce such persons within thirty (30) days after being requested to do so may result in denial of the application.
- (d) *Operation in conjunction with establishment dealing in secondhand goods.* No pawnshop shall be operated at the same location or in the same premises with the sale, dealing in, exchange or handling of other than new goods, wares or merchandise. No license for the sale, dealing in, exchange or handling of other than new goods, wares or merchandise shall be issued for a location licensed for a pawnshop.
- (e) *Notification of change in information.* Licensees shall immediately notify the Forsyth County Sheriff's Office in writing of any change in any information, material or data furnished in connection with an application for a license, or any material change in the type of business, ownership or qualifications of the applicant or employees subsequent to license issuance.

- (f) *Application Fee.* The application shall be accompanied by a certified check for the full amount of the license fee, together with a separate check in the amount of \$250.00 as an investigative fee. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee shall be refunded (without interest) to the applicant. All other fees submitted as part of the application shall be retained by the County.
- (g) Each applicant shall certify in writing that the applicant has read this ordinance and, if the license is granted, each licensee shall maintain an updated copy of this ordinance on the premises.
- (h) Once an application, accompanying documents, and the required investigative and license fees are filed with the Forsyth County Sheriff's Office, the Sheriff's Office shall conduct a criminal investigation of the applicant and prepare a written criminal investigation report detailing all information relating to fingerprinting, criminal history, arrest data, and other matters pertinent to law enforcement. Upon completion of the criminal investigation report, the Sheriff's Office shall assemble the tendered application forms and accompanying documents relating to investigation and processing of the application and deliver such documents to the Forsyth County Administrator. If the criminal investigation report shows that the applicant meets the requirements set by this ordinance and all other requirements of this ordinance are satisfied, then the County Administrator shall schedule the application for hearing at the next regularly scheduled public hearing calendar before the Board of Commissioners and shall so inform the applicant of this fact before such meeting. If the criminal investigation report show that the applicant fails to meet the requirements set by this ordinance, or if the applicant fails to meet all other requirements outlined by this ordinance, then the County Administrator shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his right to appeal. Such appeal shall be before the Board of Commissioners in accordance with section 96-10 of this ordinance. If an applicant desires to appeal a denial, the applicant must file a written request for an appeal with the County Administrator within five business days of the date of the written notice informing the applicant of the denial.

- (i) Any application that the County Administrator determines to satisfy all the requirements outlined in this ordinance, including character requirements as contained in the criminal investigation report of the Sheriff's Office, shall be scheduled for review at the next regularly scheduled public hearing calendar of the Forsyth County Board of Commissioners. At that meeting, the applicant and any person opposed to such application has the right to present to the board of commissioners any information that the Board of Commissioners determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the Board of Commissioners shall look to the qualifications set forth in this ordinance and consider the public interest and welfare of the citizens of the County. The board shall have the discretion to grant or deny the application based on the information presented. A decision by the Board of Commissioners shall be made within thirty (30) days from the date of the public hearing, unless the decision is postponed for purposes of obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Board of Commissioners shall be mailed to the applicant. If the application is denied, such written notification shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his right to appeal. Such appeal shall be taken solely in accord with section 96-10(e) of this ordinance.
- (j) In all instances in which an application is denied, the applicant may not reapply for the same type of license for at least one year from the date of denial.
- (k) Upon the issuance of a license, the licensee must have and continuously maintain in Forsyth County a registered agent upon whom any process, notice, or demand required or permitted by law or under this ordinance may be served. This person must be an individual and must be a resident of Forsyth County. The licensee shall submit the name of such agent, along with the written consent of such agent, to the County Administrator. The identity of the agent may also be submitted contemporaneous to filing the license application.
- (l) Upon approval by the Board of Commissioners of the application for a license, the County Administrator shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation, the license shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one of the partners. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be one-half the annual license fee. License fees are not refundable once the license is granted by the County.

Sec. 96-5. Time limit for commencement; Forfeiture for non-use.

- (a) All holders of licenses under this ordinance must, within six months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the County Administrator. Failure to open the licensed establishment as referred to in this subsection within the six-month period shall serve as an automatic forfeiture and cancellation of the license, and no refund of license fees shall be made to the license holder.
- (b) Any holders of a license under this ordinance who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action of the County Administrator or the Board of Commissioners.

Sec. 96-6. Renewal; Transfers of License

- (a) *Renewal.* Any license holder subject to this ordinance shall apply for renewal of any existing license and shall pay the annual license fee no later than February 15th of each calendar year in which it does business.
- (b) *Transfer.* No license granted for a pawnshop shall be transferable except upon application to the Forsyth County Sheriff's Office in the same form and manner, and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred only to another applicant doing the same business at the same place as the license holder to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the County Administrator, who shall record such transfer, and the transferee shall pay a fee therefore as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established from time-to-time by the Forsyth County Board of Commissioners.

Sec. 96-7. Hours of Operation.

- (a) All holders of licenses under this division shall operate only during the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.

Sec. 96-8. Suspension or Revocation of License

Immediate suspension, revocation, or forfeiture of an issued license by the Board of Commissioners shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in section 96-10 and only upon the following occurrences:

- (1) Any license issued under this ordinance for the operation of a pawnshop shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet or property therein.
- (2) Except as provided in the transfers section of 96-6(b), any change in the ownership of any entity owning a licensed outlet shall be grounds for the Board of Commissioners to revoke any license issued under this ordinance.
- (3) A license shall be immediately suspended or revoked by the Board of Commissioners upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this ordinance.
- (4) The Board of Commissioners shall immediately suspend or revoke the license of any licensee who does not meet the qualifications set forth in this ordinance at any time such information becomes known to the Board of Commissioners.

Sec. 96-9. Enforcement

- (a) Any violation of this ordinance, other than those items set forth in section 96-8, shall subject the licensee to the following progressive actions by the Board of Commissioners, without the necessity of a public hearing:
 - (1) The first violation shall result in a warning or a license suspension for up to thirty (30) days.
 - (2) The second violation within a consecutive 24-month period shall result in a license suspension for a period of not less than thirty (30) days nor more than ninety (90) days.
 - (3) The third violation within a consecutive 24-month period shall result in license suspension for a period of not less than ninety (90) days nor more than six (6) months.

- (b) In addition to the above sanctions, individuals who violate this ordinance shall be subject to issuance of a citation and prosecution before the Forsyth County Magistrate Court. The penalties assessed in such an action may result in a fine not exceeding \$1,000.00, imprisonment not to exceed sixty (60) days, or both.

Sec. 96-10. Hearing on Denial, Suspension or Revocation.

- (a) Upon receipt of a timely appeal of an administrative denial, or upon alleged violation of those items in section 96-8, the County Administrator shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The County Administrator shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Attorney and the adverse party and/or counsel for the adverse party.
- (b) The Board of Commissioners shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.
- (c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his case, to rebut the allegations made against him, and present whatever defenses he has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses. An opportunity for rebuttal shall be provided.
- (d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the County Administrator, and it shall be the duty of the County Administrator to provide written notification via certified mail to the adverse party of the decision of the Board of Commissioners.
- (e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Forsyth County within thirty (30) days of receipt of the County Administrator's written notification to the adverse party of the Board's decision.

ARTICLE II – TRANSACTIONS

Sec. 96-11. Record of Transactions.

- (a) Every pawnbroker shall maintain a permanent record book in which it shall be entered in legible English at the time of each loan or purchase:
 - (1) The date of the transaction;
 - (2) The name of the person conducting the transaction;
 - (3) The name, age and address of the customer; a description of the general appearance of the customer; and the distinctive number from the customer's driver's license or other similar identification card;
 - (4) An identification and description of the pledged or purchased goods, including, if reasonably available, the serial, model or other number, and all identifying marks inscribed thereon;
 - (5) The number of the receipt or pawn ticket; in sequential order with no omissions, deletions, or duplications;
 - (6) The price paid or the amount loaned;
 - (7) If payment is made by check, the number of the check issued for the purchase price or loan;
 - (8) The maturity date of the transaction; and
 - (9) The signature of the customer.
 - (10) The fingerprint of the right hand index finger of the customer, unless such finger is missing, in which even the print of the next finger in existence on the right hand of the person pawning the articles shall be obtained with the notation as to the exact finger printed;
- (b) Every pawnbroker shall maintain a permanent record book in which it shall be entered in legible English at the time of each sale of merchandise from the store to a customer:
 - (1) The date of the sale;
 - (2) The name of telephone number of the customer.

- (c) Entries shall appear in ink and shall be in chronological order. No obliterations, alterations or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The record shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or at any reasonable time.
- (d) The record of each pawn or purchase transaction provided for in this section shall be maintained for a period of not less than four years.

Sec. 96-12. Reports to FCSO; Customer Fingerprints and Identification.

- (a) *Daily report.* By 9:00 a.m. of each business day, every licensee under this ordinance shall tender a report to the Forsyth County Sheriff's Office in such form and manner as may be prescribed by the Sheriff's Office, of all property pledged, received, traded, bartered, bought or otherwise acquired by the licensee during the previous 24 hour period. In addition to any other information required by the Sheriff's Office, the report shall include: the name and address of the licensee; time of transaction; serial number of pawn tickets; amount paid or advanced; full description of articles with sufficient information to identify each of such articles, including kind, style, material, color, design, kind and number of precious metals or gemstones, if any, and all identifying names, marks, and numbers; and a description of the person pledging, selling or pawning, including name, address, color, weight and height. Insufficient reports shall be rejected, and any licensee, or employee thereof, making an insufficient report shall be deemed guilty of an offense punishable according to the provisions of section O.C.G.A. § 44-12-137 and/or section 96-9 of this ordinance.
- (b) *Customer identification.* Each licensee shall require that any person pawning, pledging, bartering, exchanging, selling or entering into any transaction with the business shall display evidence of identification, such as a duly issued driver's license with picture or other similar evidence containing a picture of the customer, and the licensee shall record the driver's license number or other number or feature of such evidence of identification.
- (c) *Violations.* The failure of any licensee to comply with the provisions of this section shall constitute an offense, punishable as provided in O.C.G.A. § 44-12-137 and/or section 96-9 of this ordinance.

Sec. 96-13. Holding Period of Pledged Articles.

- (a) All property received through any pawnshop transaction shall be held for at least 30 days before disposing of same by sale, transfer, shipment, or otherwise, except when property is redeemed as per a pawn transaction contract.

- (b) All property pledged, traded, pawned, exchanged, or purchased shall be held and maintained by the pawnbroker on the premises of the pawnshop or, if impracticable, at such other location as may have been previously approved in writing by the Sheriff of Forsyth County or his designee.
- (c) The Sheriff's Office has the authority to place property that is the subject of police investigation on "police hold." In that event, the Sheriff's Office shall notify the pawnbroker of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the pawnbroker to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.

Sec. 96-14. Minors.

It shall be unlawful for any pawnbroker, his or her agents or employees, to receive through any pawnshop transaction any property from minors. A minor, for the purpose of this section, is an individual 17 years of age or under.

Sec. 96-15. Sale of Knives, Blackjacks and Other Weapons.

It shall be unlawful for any licensee under this division to sell, offer for sale or expose for sale any kind of metal knuckles, dirks, sword-in-canes, spears, Bowie knives or switchblade knives, or any blackjacks or similar weapons. An licensee or employee thereof violating this section shall be deemed guilty of an offense.

Sec. 96-16. Separability Clause

If any Section, subsection, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the portions of this Ordinance not so held to be invalid or unconstitutional. It is hereby declared to be the intent of the Board of Commissioners of Forsyth County to provide for separable and divisible parts and it hereby adopts any and all parts hereof as may not be held invalid for any reason.

Sec. 96-17. Effective Date

This amendments reflected herein shall become effective immediately upon passage.

PASSED AND ADOPTED THIS 18 DAY OF September, 2008, the public welfare demanding it.

Forsyth County Board of Commissioners

Charles Laughinghouse, Chairman

David W. Richard, Vice Chairman

Jim Harrell, Secretary

Dr. Linda Ledbetter, Member

Brian R. Tam, Member

Attest: _____
County Clerk