

## FREMONT COUNTY ORDINANCE NO. 2012-03

AN ORDINANCE ESTABLISHING THE REQUIREMENTS FOR THE OPERATION OF PAWNBROKER SERVICES, PROVIDING OR THE REQUIREMENTS FOR RECORD MAINTENANCE; PROVIDING FOR GENERAL PROVISIONS OF PAWNBROKER SERVICES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING WHEN SAID ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO:

I. PAWNBROKER BUSINESS

The doing of any single act listed below shall constitute the carrying on of a pawnbroker's business.

1. Loaning or advancing money, whether in the form of cash, credit or draft, to any person on the deposit, pledge, or bailment of personal property of any kind as security for such loan or advancement when the personal property may be repurchased by the party upon paying a sum of money;
2. Loaning or advancing money, whether in the form of cash, check, or draft upon a chattel mortgage(s) on personal property where said property is taken into the possession of the lender as security for the advancement or loan upon any assignment(s), pledge(s) of earned or unearned salary, wages, or earnings;
3. Loaning or advancing money, whether in the form of cash, check, or draft, upon any contract or agreement which assigns, pledges, or binds the earned or unearned salary, wages, or earnings of the borrower as security for the loan or advancement.
4. Purchasing previously owned or used personal property on the condition that it may be repurchased by the seller within a fixed period of time for a fixed sum of money. For the purpose of this ordinance, purchasing shall also include trade.

II. INSPECTION OF PREMISES

Upon request of the Fremont County Sheriff or designee, the pawnbroker or anyone acting on behalf of the pawnbroker shall permit the inspection of the pawnshop premises and all property kept or stored therein. Any such inspection shall occur during the pawnshop's regular and usual business hours.

### III. ACCURATE RECORDS; TRANSACTION DETAILS REQUIRED

It shall be the duty of every pawnbroker doing business in the County of Fremont, to maintain in his place of business a permanent electronic record of all parties entering into transactions regulated by this ordinance, and a complete description of the transaction. The pawnbroker shall be responsible for ensuring that each person entering into a transaction provides a current driver's license or other identification card issued by any state, federal, or local government which includes a photograph in order to verify the person's identity. The information to be transmitted shall include:

1. The nature and date of the transaction, and number identifying it.
2. The name and/or employee identification number of the person conducting the transaction on behalf of the pawnbroker.
3. Full name, complete current residential address, current phone number, date of birth, race, sex, height, weight, hair and eye color of the person or persons with whom the transaction was made. .
4. Type and identifying number of the personal identification used by the person with whom the transaction was made and a copy of that identification kept in file.
5. Complete description of the property pledged, bought, or consigned, including as applicable, brand name; serial number; model number by name; any initials or engravings or other identifying marks. Jewelry shall be described with the type, weight, color, number and description of stones, style, size or length, pattern, any engraving, and whether it is considered a man's woman's or child's piece. CDs, DVD's, videos, tapes, records, etc., shall be described with any owner identification marks and the category of movie or music to which it belongs. The title and artist should also be documented if practicable. Vehicles shall be described with the VIN, make, model and color. Firearms shall be described with the make, brand, model number, caliber, type, barrel length, and finish.
6. Items purchased off premises of business: if items are purchased through yard sales, garage sales, want ads or at public auction, records need to show an accurate account of the articles purchased; the amount paid, the name of the person from whom the articles were purchased and the nature of the sale.
7. Sale of merchandise: each pawnbroker shall record the name, address and a driver's license number for each purchase of secondhand or pawned goods or articles.

Every transaction shall be evidenced by a written document, signed by the person entering into the transaction, and a copy shall be furnished to the pledger. The document must contain, at a minimum, the date of the transaction, the term of the loan, the date on which the loan is due and payable, and information that the pledger has the right to redeem the pledge within five (5) days after the expiration of the loan terms. The signed original must be retained on file at the pawnbroker's business address for at least one year.

All paper and computer records of property received and transactions made shall be open to, and made available for, inspection by the county's law enforcement personnel during the pawnbroker's normal business hours.

#### IV. PROHIBITED TRANSACTIONS

No pawnbroker or a person acting on behalf of the pawnbroker shall enter into any regulated transaction in which the property at interest is such property that is manufactured or produced with a serial or identification number, and the said number has been removed, altered or rendered unreadable.

#### V. STORAGE OF MERCHANDISE

Each pawnbroker shall maintain his business premises in an orderly fashion; all merchandise received shall be kept or stored inside a building or behind a sight-obscuring fenced area.

#### VI. TRANSMITTAL OF DAILY REPORTS REQUIRED

Every pawnbroker doing business in the County of Fremont shall maintain in his place of business a complete paper and electronic record of all transactions conducted either by him/herself or by his employee or other staff. A record of each day's transactions shall be transmitted by five 'o'clock p.m. (5:00 p.m.) the following business day to the Fremont County Sheriff's Office through such method as approved by the Sheriff.

#### VII. RETENTION OF PROPERTY

A pawnbroker must retain any property received in pledge until ten (10) days after the term of the original loan has expired. Provided, however, that gold, silver, and other precious metals not in the form of jewelry may be disposed of as soon as the term of the loan has expired.

#### VIII. STOLEN PROPERTY; NOTIFICATION; HOLDING PERIOD

If a pawnbroker has reasonable cause to believe that any property received in the course of his business is property that may have been lost or stolen, the pawnbroker shall immediately report that fact in writing to the Fremont County Sheriff's Office, together with the name of the owner, if known, the date of the transaction, and the name of the party from whom the property was received. The Fremont County Sheriff's Office shall regularly review the records provided by pawnbrokers and provide notice to any pawnbroker whose records show property which appears to be stolen.

If a pawnbroker receives written or verbal notification from the Fremont County Sheriff's Office that any item of property has been reported stolen, and the pawnbroker has such item in his possession, the pawnbroker shall hold that property separate, intact and safe from alteration, damage, or commingling with other property, and shall place an identifying tag or other clearly legible identification on the property.

Following receipt of verbal notification by a member of the Fremont County Sheriff's Office that an item in his possession might be stolen property; the pawnbroker shall hold the property for a period of fourteen (14) working days, pending written confirmation from the Fremont County Sheriff's Office. If a written hold notice is not received within the said fourteen (14) days, the preliminary hold order shall expire and the pawnbroker shall have no further duty to hold the property.

The rightful owner of stolen or lost property shall not be liable to the pawnshop for any amounts expended with respects to the stolen or lost property.

A pawnbroker shall not be responsible for returning stolen or lost property directly to a rightful owner but will turn the matter over to law enforcement once the pawnbroker has reason to believe that the property was wrongfully acquired.

#### IX. RELEASE OF HELD PROPERTY

The Fremont County Sheriff's Office shall provide written notice as soon as practical to a pawnbroker to release any hold placed on an item suspected of being stolen if it has been determined that the item was not stolen or lost.

Whenever property that is being held by a pawnbroker pursuant to the provisions above is required for criminal investigation or criminal proceedings, the Fremont County Sheriff's Office shall provide twenty-four (24) hour notice to the pawnbroker who shall produce the property promptly and release it to them. The Fremont County Sheriff's Office shall provide a receipt for the property containing a description of the property, the reason for the seizure, the criminal case number, if applicable, the name of the pawnbroker and the name of the representative of the Fremont County Sheriff's Office who accepted possession. The Fremont County Sheriff's Office shall retain the property pending an order for its disposition from a court of competent jurisdiction.

#### X. RECEIVING GOODS FROM CERTAIN PERSONS PROHIBITED

It is unlawful for any pawnbroker or staff member to receive any property from any person who is intoxicated or under the influence of drugs, or anyone under the age of eighteen (18) years; provided, however that a pawnbroker and/or his staff may receive sports trading cards in pawn, pledge or for sale from persons under the age of eighteen (18).

#### XI. AGE OF EMPLOYEES AND STAFF

It is unlawful for any pawnbroker to employ any clerk or person under the age of eighteen (18) years or utilize the services of any person under the age of eighteen (18) years to receive any pledge or make any loan.

#### XII. UNLAWFUL ACTS

1. Failure to make record of any transaction as described in this ordinance.

2. Falsifying any official record or entry on an official record required to be kept pursuant to this ordinance.
3. Obliterating, destroying, or removing from the place of business any records required to be kept pursuant to this ordinance.
4. Refusing to allow the Fremont County Sherriff or designee to inspect the business premises, or any books, records or other goods located or required to be located at the place of business, during regular and usual business hours.
5. Transmittal of any false record to law enforcement.
6. Failure to report the possession of property that may be lost or stolen.
7. Purchase of stolen merchandise with the knowledge that it is stolen.
8. Removal or allowing removal of property from the business before the time limits set forth herein, unless redeemed by the rightful owner.
9. Receipt of property from a person under the age of eighteen (18) unless it is sports cards.
10. Receipt of property from a known thief or receiver of stolen property, or known associates of such, whether the person is action on their own behalf or as the agent of another.
11. Any other violation of this specific provisions of this ordinance not specifically enumerated above.

### XIII. ADDITIONAL VIOLATIONS

It shall be a violation for any person to furnish false information to a pawnbroker if the provided information is required to be recorded pursuant to this ordinance.

It shall be a violation for any person to pledge or sell any property to a pawnbroker or the pawnbroker's employees or agents, knowing the property is leased or let to him or another by any instrument in writing under a contract of purchase which is not yet fulfilled.

### XIV. PENALTIES

Any violation of the provisions of this ordinance shall be considered a misdemeanor, and the pawnbroker shall be subject to the issuance of and Idaho uniform citation for the violation, and shall be punished pursuant to Idaho Code.

### XV. REPEAL

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

XVI. SEVERABILITY


The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutional or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, wok or part had not bee included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom.

XVII. EFFECTIVE DATE

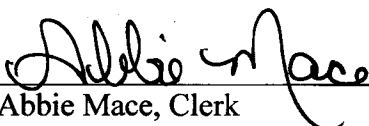
This ordinance shall be in full force and effect after it is passed and publication is completed pursuant to Idaho Code.

PASSED AND AOPTED BY THE FREMONT COUNTY COMMISSIONERS, this 24<sup>th</sup> day of September, 2012.

BOARD OF COUNTY COMMISSIONERS  
Fremont County, Idaho

  
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Ronald "Skip" Hurt, Chairman

ATTEST:

  
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Abbie Mace, Clerk

