Chapter 5.40

PAWNBROKERS

Sections:
5.40.010 Definitions.
5.40.020Pawnbroker’s license required.
5.40.030Fixed place of business required.
5.40.040Exemption.
5.40.050Application for license.
5.40.060Criteria for denial, nonrenewal, suspension or revocation of license.
5.40.070Request for hearing.
5.40.080Transfer of license upon transfer of business.
5.40.090Duty to record information.
5.40.100Transcript of pawnbroker’s record.
5.40.110Duties upon notification that property is reported stolen.
5.40.120Retention of property by pawnbrokers – Inspection.
5.40.130Pawnbrokers – Sale of pledged property limited – Written document required for transactions.
5.40.140Interest rates of goods held.
5.40.150Operation at night.
5.40.160Ammunition sales or storage.
5.40.170Prohibited acts – Penalty.

5.40.010 Definitions.
For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

1) “Antique” means any item of personal property reasonably identifiable as being more than 50 years old.

2) “Bullion” means a form of precious metal or alloy thereof, such as gold, silver, palladium or platinum, traded for its intrinsic value in its manufactured form, such as ingots, bars or coins, and including either a serial number or a stamp from the manufacturer.

3) “Pawnbroker” means any person who owns and/or manages a business that is engaged, in whole or in part, in the business of loaning money upon the security of deposits or pledges of personal property. (Ord. 1723 § 3, 1998).

5.40.020 Pawnbroker’s license required.
It shall be a violation of this chapter for any person to own and/or manage a business that is engaged in the business of pawnbroker, or to conduct a pawnshop, without first obtaining a regulatory license in addition to a business license. Each premises shall require a separate regulatory license. The fee for a pawnbroker’s license is $100.00 per year. (Ord. 1723 § 4, 1998).

5.40.030 Fixed place of business required.
No person may operate a pawnbroker business unless the person maintains a fixed place of business within the city. (Ord. 1723 § 5, 1998).

5.40.040 Exemption.
This chapter shall not apply to any bona fide charitable or nonprofit organization, nor shall it apply to any merchants or dealers whose business is limited to used or secondhand clothing. (Ord. 1723 § 6, 1998).

5.40.050 Application for license.
(1) All applications for issuance of a pawnbroker’s license shall be made to and filed with the city clerk on forms furnished for such purpose, and shall be accompanied by the required fee. This application shall state the true name of the applicant, who shall not be less than 18 years of age, the names of all persons having financial, proprietary or other interest in such pawnshop, together with such other information as the city clerk deems appropriate for evaluating the application pursuant to this chapter. Any pawnbroker now in business shall apply for such license as provided herein within 30 days after the effective date of the ordinance codified in this chapter. Any pawnbroker operating in a newly annexed area of the city shall within 30 days after the effective date of annexation submit an application with required fee prescribed herein.

(2) Upon filing of an application, it shall then be referred to the Port Orchard police department for investigation, report and recommendation. Within 30 days after receipt of a copy of the application, the police department shall investigate the statements set forth in the application and report to the city clerk whether the application contains false, misleading, or incomplete information. The police department shall, at the same time and as part of its report to the city clerk, render a written recommendation as to approval or denial of the application for permit or renewal thereof.

(3) Within 30 days after receiving the report and recommendation from the police department,
the city clerk shall grant or deny the permit or renewal thereof. If, from the information contained in the application, it appears that the application is proper and the statements contained in the application are true and complete, and that the applicant is in compliance with all requirements and criteria set forth in the Port Orchard Municipal Code, the city clerk shall issue a license. (Ord. 1723 § 7, 1998).

5.40.060 Criteria for denial, nonrenewal, suspension or revocation of license.

The city clerk may deny a license to any applicant or may suspend or revoke any and all licenses of any holder when such person, or any person with an interest in the application for or holder of such license:

(1) Has been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past 10 years;

(2) Has obtained a pawnbroker license by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(3) Has failed to display a pawnbroker license on the premises where the licensed activity is conducted at all times during the conduct of business;

(4) Has failed to timely pay its pawnbroker license fee pursuant to this chapter;

(5) Makes a misrepresentation of or fails to disclose a material fact to the city;

(6) Has been convicted of a violation of this chapter or a violation of this section.

A licensee shall have his license suspended for 30 days for the first violation, 90 days for the second violation; and upon the third violation in any 12-month period, the pawnbroker’s license shall be revoked. (Ord. 1723 § 8, 1998).

5.40.070 Request for hearing.

When the city clerk determines that there is cause for denying, suspending or revoking any license issued pursuant to this chapter, the clerk shall notify the person holding such license by registered or certified mail, return receipt requested, of the clerk’s decision. Notice mailed to the address on file shall be deemed received three days after mailing. The notice shall specify the grounds for denial, suspension or revocation and outline the requirements for appeal. The suspension or revocation shall become effective 10 days from the day the notice is delivered or deemed received unless the person affected thereby files a written request with the city clerk for a hearing before the city council within such 10-day period. The city council shall set and hold a hearing within 30 days following receipt of such a request. Appeal from a decision of the city council shall be to the Kitsap County superior court and must be served and filed within 30 days of the decision of the city council. Failure to follow the procedures set forth will result in the action being final. (Ord. 1723 § 9, 1998).

5.40.080 Transfer of license upon transfer of business.

In the event a pawnbroking business is sold in its entirety, the new owner must complete the application process above. (Ord. 1723 § 10, 1998).

5.40.090 Duty to record information.

(1) Every pawnbroker doing business in the city of Port Orchard shall maintain wherever that business is conducted a record in which shall be legibly written in the English language, at the time of each transaction the following information:

(a) The date of the transaction;

(b) The name of the person or employee or the identification number of the person or employee conducting the transaction;

(c) The name, date of birth, sex, height, weight, race, and address and telephone number of the person with whom the transaction is made;

(d) A complete description of the property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color or stone or stones, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun;

(e) The price paid or the amount loaned;

(f) The type and identifying number of identification used by the person with whom the transaction was made, which shall consist of a valid driver’s license or identification card issued by any state or two pieces of identification issued by a governmental agency, one of which shall be descriptive of the person identified. At all times, one piece of current government-issued picture identification will be required; and

(g) The nature of the transaction, a number identifying the transaction, the store identification as designated by the applicable law enforcement agency, or the name and address if the business and
5.40.100 Transcript of pawnbroker's record.

(1) Every pawnbroker shall, before 12:00 noon of every business day furnish a full, true and correct transcript of the record of all transactions conducted on the preceding day. These transactions shall be recorded on such forms as may be provided and in such format as may be required by the chief of police.

(2) If a pawnbroker has good cause to believe that any property in his or her possession has been previously lost or stolen, the pawnbroker shall promptly report that fact to the chief of police, together with the name of the owner, if known, and the date when, and the name of the person from whom it was received. (Ord. 1723 § 12, 1998).

5.40.110 Duties upon notification that property is reported stolen.

Following notification from a law enforcement agency that an item of property has been reported as stolen, the pawnbroker shall hold that property intact and safe from alteration, damage or commingling. The pawnbroker shall place an identifying tag or other suitable identification upon the property so held. Property held shall not be released for 120 days from the date of police notification unless released by written consent of the applicable law enforcement agency or by order of a court of competent jurisdiction. In cases where the applicable law enforcement agency has placed a verbal hold on an item, that agency must then give written notice within 10 business days. If such written notice is not received within that period of time, then the hold order will cease. The pawnbroker shall give a 20-day written notice before the expiration of the 120-day holding period to the applicable law enforcement agency about the stolen property. If notice is not given within 20 days, then the hold on the property shall continue for an additional 120 days. The applicable law enforcement agency may renew the holding period for additional 120-day period as necessary. After the receipt of notification from a pawnbroker, if an additional holding is required, the applicable law enforcement agency shall give the pawnbroker written notice, prior to the expiration of the existing hold order. A law enforcement agency shall not place on hold any item of personal property unless that agency reasonably suspects that the item of personal property is a lost or stolen item. Any hold that is placed on an item will be removed as soon as practicable after the item on hold is determined not to be stolen or lost. (Ord. 1723 § 13, 1998).

5.40.120 Retention of property by pawnbrokers — Inspection.

Property bought or received in pledge by any pawnbroker shall not be removed from that place of business, except when redeemed by, or returned to the owner, within 30 days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions. (Ord. 1723 § 14, 1998).

5.40.130 Pawnbrokers — Sale of pledged property limited — Written document required for transactions.

(1) The term of the loan shall be for a period of 30 days to include the date of the loan.

(2) A pawnbroker shall not sell any property received in pledge, until both the term of the loan and a grace period of a minimum of 60 days have expired. However, if a pledged article is not redeemed within the 90-day period of the term of the loan and the grace period, the pawnbroker shall have all rights, title, and interest of that item of personal property. The pawnbroker shall not be required to account for the pledge or for the proceeds received from the disposition of that item. Any provision of law relating to the foreclosures and the subsequent sale of forfeited pledged items, shall not be applicable to any pledge as defined under this chapter, the title to which is transferred in accordance with this section.

(3) Every loan transaction entered into by a pawnbroker shall be evidenced by a written document a copy of which shall be furnished to the pledgor. The document shall set forth the term of the loan; the final date on which the loan is due and
payable; the loan preparation fee; the amount of interest charged every 30 days; the total amount due including the principal amount, the preparation fee, and all interest charges due if the loan is outstanding for the full 90 days allowed by the term and minimum grace period; and the annual percentage rate, and shall inform the pledgor of the pledgor’s right to redeem the pledge at any time within the term of the loan or the minimum 60-day grace period.

(4) If a person who has entered into a loan transaction with a pawnbroker in this state is unable to redeem and repay the loan on or before the expiration of the term of the loan plus the minimum 60-day grace period, and that person wishes to retain his or her rights to use that item by renewing the loan, and if both parties mutually agree, an existing loan transaction may be rewritten into a new loan, either in person or by mail. All applicable provisions of this chapter shall be followed in rewriting a loan, except that where an existing loan is rewritten by mail RCW 19.60.020(1)(a) and (g) shall not apply. (Ord. 1723 § 15, 1998).

5.40.140 Interest rates of goods held.
All pawnbrokers are authorized to charge and receive interest and other fees for the loan of money on the security of personal property actually received in pledge as allowed by Chapter 19.60 RCW or any successor statute; and every person who asks or receives a higher rate of interest or fees on any such loan, or on any actual or purported sale or redemption of personal property, or who sells any property held for redemption within the 90-day period of both the term of the loan and the grace period provided for by Chapter 19.60 RCW, is guilty of a violation of this chapter. (Ord. 1723 § 16, 1998).

5.40.150 Operation at night.
It shall be unlawful for any pawnbroker to conduct or carry on the business of pawnbroker, in whole or in part, directly or indirectly, or to open, or keep open, his pawnshop for the transaction of any business whatsoever therein, between the hours of 7:00 p.m. and 7:00 a.m. except from December 15th to December 25th of each year, and on Saturdays, when pawnbrokers may remain open until, but not later than 10:00 p.m. (Ord. 1723 § 17, 1998).

5.40.160 Ammunition sales or storage.
It is unlawful for any pawnbroker or pawnshop to purchase, store or offer for sale or trade, any firearms ammunition. (Ord. 1723 § 18, 1998).

5.40.170 Prohibited acts – Penalty.
It is a gross misdemeanor, punishable by not more than one year in jail and a $5,000 fine for:

1. Any person to remove, alter, or obliterate any manufacturer’s make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased, consigned or received in pledge. In addition an item shall not be accepted for pledge or a secondhand purchase where the manufacturer’s make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property has been removed, altered, or obliterated;

2. Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material in any book, record, or writing required to be kept under this chapter;

3. Any pawnbroker to receive any property from any person under the age of 18 years, any person under the influence of intoxicating liquor or drugs, or from any person who is known to the pawnbroker as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past 10 years whether the person is acting in his or her own behalf or as the agent of another;

4. Any pawnbroker to engage in the business of cashing or selling checks, drafts, money orders, or other commercial paper serving the same purpose unless the pawnbroker complies with the provisions of Chapter 31.45 RCW; or

5. Any person to violate knowingly any other provision of this chapter. (Ord. 1723 § 19, 1998).