

**AN ORDINANCE REGULATING RECORDKEEPING REQUIREMENTS FOR CASH CONVERTER BUSINESSES, PAWNBROKERS, PRECIOUS METALS DEALERS AND SECONDARY METALS RECYCLERS**

WHEREAS, the **Town of Fairview Council** has determined that the making of pawn loans and the acquisition and disposition of tangible personal property by and through pawnbrokers, pawnshops, cash converters, recycled metals dealers and precious metals dealers affects the general economy of **Town of Fairview** and the health, safety, and welfare of its citizens, and in recognition of these facts, the **Town of Fairview Council** adopts this ordinance for the purpose of preventing unlawful property transactions, particularly in stolen property; and

WHEREAS, the **Town of Fairview Council** also adopts this ordinance for the purpose of assisting the Union County Sheriff's Office with finding stolen property and apprehending persons guilty of theft and other related property crimes; and

WHEREAS, North Carolina General Statute § 66-397 authorizes municipalities to adopt by ordinance the provisions of Part 1 of Article 45 of Chapter 66 of the General Statutes and to adopt such other rules and regulations as the governing body deems appropriate for cash converters and pawnbrokers, provided that no county or city may regulate (1) Interest, fees, or recovery charges; (2) Hours of operation, unless such regulation applies to businesses, generally; (3) The nature of the business or type of pawn transaction; or (4) License fees in excess of rates set by the State; and

WHEREAS, N.C.G.S. § 66-391, N.C.G.S. § 66-392, N.C.G.S. § 66-410, N.C.G.S. § 66-422 all allow for the electronic transmission of records from pawnbrokers, cash converter businesses, precious metals dealers and secondary metals recyclers to local law enforcement agencies; and

WHEREAS, no part of this ordinance is in conflict with any Part or statute in Chapter 66 of the North Carolina General Statutes;

NOW, THEREFORE, be it ordained by the **Town of Fairview Council**:

SECTION 1. Adoption of Part 1 of Article 45 of Chapter 66 of the General Statutes.

The provisions found in Part 1 of Article 45 of Chapter 66 of the North Carolina General Statutes are hereby adopted by this ordinance.

SECTION 2. Definitions.

(a) "Cash converter" shall have the same meaning as defined in North Carolina General Statute § 66-387.

(b) "Dealer" shall have the same meaning as defined in North Carolina General Statute § 66-406.

(c) "Local law enforcement agency" shall have the same meaning as defined in North Carolina General Statute § 66-406.

(d) "Pawnbroker" shall have the same meaning as defined in North Carolina General Statute § 66-387.

(e) "Pawnshop" shall have the same meaning as defined in North Carolina General Statute § 66-387.

(f) "Precious Metal" shall have the same meaning as defined in North Carolina General Statute § 66-406.

(g) "Precious metals dealer" shall have the same meaning as the term "Dealer" as defined by North Carolina General Statute § 66-406.

(h) "Secondary metals recycler" shall have the same meaning as defined in Chapter 66 of the North Carolina General Statutes. The exemptions found in North Carolina General Statute §66-427 shall also constitute exemptions to this ordinance's definition of the term "secondary metals recycler."

### SECTION 3. Photographs or Video.

Every pawnbroker and every cash converter shall obtain a video or digital photograph of the seller or pledgor together with any property being delivered by the seller or pledgor. The video or photograph required by this section shall be of a quality that is sufficient to allow a person of ordinary faculties to identify the person recorded or photographed. The photograph or video shall be uploaded to the entity or electronic system designated by the Union County Sheriff's Office for receipt of the information on behalf of the Union County Sheriff's Office.

### SECTION 4. Electronic transmittal of required records.

- A. Upon designation by the Union County Sheriff of an entity or an electronic system for receipt of the information on behalf of the Union County Sheriff's Office, every pawnbroker shall electronically input/upload and transmit the information that must be made available for the Sheriff's inspection and pickup pursuant to N.C.G.S. §66-391. The input/upload and transmission shall be made to the entity or electronic system designated by the Union County Sheriff for receipt of the information on behalf of the Union County Sheriff's Office. The input/upload and transmission shall be made each regular workday.
- B. Upon designation by the Union County Sheriff of an entity or an electronic system for receipt of the information on behalf of the Union County Sheriff's Office, every cash converter shall electronically input/upload and transmit the information that must be made available for the Sheriff's inspection and pickup pursuant to N.C.G.S. §66-392. The input/upload and transmission shall be made to the entity designated or on an electronic system designated by the Union County Sheriff for receipt of the information on behalf of the Union County Sheriff's Office. The input/upload and transmission shall be made each regular workday.
- C. Upon designation by the Union County Sheriff of an entity or an electronic system for receipt of the information on behalf of the Union County Sheriff's Office, every precious metals dealer shall electronically input/upload and transmit the information that the precious metals dealer is required to file or report to the local law enforcement agency pursuant to N.C.G.S. §66-410. The input/upload and transmission shall be made to the entity designated or on an electronic system designated by the Union County Sheriff for receipt of the information on behalf of the Union County Sheriff's Office. The input/upload and transmission shall be made within 48 hours of every precious metal(s) transaction.
- D. Upon designation by the Union County Sheriff of an entity or an electronic system for receipt of the information on behalf of the Union County Sheriff's Office, every secondary metals recycler shall electronically input/upload and transmit the information that the secondary metals recycler is required to make available for pickup by the Sheriff pursuant to N.C.G.S. §66-422. The input/upload and transmission shall be made to the entity designated or on an electronic system designated by the Union County Sheriff for receipt of the information on behalf of the

Union County Sheriff's Office. The input/upload and transmission shall be made each regular workday.

SECTION 5. ORDINANCE NOT MEANT TO SERVE AS A SUBSTITUTE FOR STATUTORY RECORDKEEPING, RETENTION, ETC. REQUIREMENTS.

Notwithstanding anything in this ordinance to the contrary, this ordinance and the resulting designation by the Sheriff of an entity or electronic system for the receipt of information shall not serve as substitutes for or in satisfaction of the recordkeeping, record retention, record disposal, receipt and ticketing requirements set forth in Chapter 66 of North Carolina General Statutes. Section 4 of this ordinance merely establishes how information is to be transferred to the Union County Sheriff's Office. Pawnbrokers, pawnshops, cash converters, secondary metals recyclers, and precious metals dealers are independently responsible for meeting all statutory requirements. Reliance on the entity or the electronic system designated by the Sheriff for fulfillment of any statutory requirement other than the electronic transfer of information to the Sheriff's Office is at the pawnbrokers', cash converters', precious metals dealers', and secondary metals recyclers' own risk.

SECTION 6. PENALTIES FOR VIOLATION.

Violation of any provisions of this ordinance shall subject the offender to one or more of the following enforcement actions. Each day that any violation continues after notification by the Sheriff of Union County or his designee that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(a) Violations shall constitute a Class 3 misdemeanor pursuant to G.S. § 14-4, punishable by a fine of up to \$500.00 and imprisonment in the discretion of the court.

(b) **The Town of Fairview** may apply for an appropriate equitable remedy from the General Court of Justice, including but not limited to mandatory and prohibitory injunctions and orders of abatement as allowed pursuant to G.S. § 160A-175.

SECTION 7. APPLICABILITY. The provisions of this ordinance shall apply within the corporate limits of **Town of Fairview**.

SECTION 8. AUTHORITY. Whenever any provision of this ordinance refers to or cites a section, part, or chapter of the North Carolina General Statutes and that section is later amended or superseded, the ordinance shall be deemed amended to refer to the amended section, part, or chapter, or the section, part, or chapter that most nearly corresponds to the superseded section, part, or chapter.

SECTION 9. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance, it being the legislative intent that the provisions of this ordinance shall be severable and remain valid notwithstanding such a holding.

SECTION 10. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

**Adopted this 8th day of April, 2013.**

