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**Village of Magdalena**

**Ordinance 2019-06**

**AN ORDINANCE PROVIDING FOR THE PERMITTING OF PAWNBROKERS; IMPOSING FEES; AND ESTABLISHING PROCEDURES for SUSPENSION or REVOCATION**

##### WHEREAS, NMSA 1978, Section 56 Article 12 (“The Pawnbrokers Act”) provides that every pawnbroker shall obtain a pawnbroker permit from his local government, in addition to the imposition of fees, standards, reporting requirements, and suspension or revocation procedures.

NOW THEREFORE, BE IT ORDAINED that the Board of Trustees of the Village of Magdalena adopts the following Ordinance pertaining to the permitting of pawnbrokers and establishing procedures for suspension or revocation of permits.

**Section 1. DEFINITIONS**

1. Pawnbroker: means a person engaged in the business of making pawn transactions.
2. Pawnshop: means the location or premises at which a pawnbroker regularly conducts his business.
3. Pawn Transaction: means either the act between a pawnbroker and a person pledging a good of lending money or extending credit on the security of pledged goods or of purchasing tangible personal property with an express or implied agreement or understanding that it may be redeemed or repurchased by the seller at a stipulated price.
4. Local Law Enforcement Agency: means the Magdalena Marshal’s Office.

**Section 2. APPLICATION OF ADDITIONAL LAWS**

1. Permitted pawnbrokers must comply with all conditions of State and Federal Law that may not be contained within this Ordinance. There are several provisions of the Pawnbrokers Act in particular that are not included in this permitting Ordinance. Failure to so comply may result in suspension or revocation proceedings of the pawn permit.
2. Permitted pawnbrokers must register their pawnshop with the Village pursuant to its Business Registration Ordinance.

**Section 3. APPLICATION**

1. Submission of an application will be made on form(s) as promulgated by the Village Clerk/Treasurer and approved by the Mayor.
2. At a minimum, each application shall be accompanied by the name, social security number, address, and date of birth of each agent, servant and employee of the applicant engaged in the business of pawn transactions.
3. Each application must be accompanied by the yearly permit fee in the amount of $100.00.
4. Each application must be accompanied by proof of execution and delivery of a bond to the Village in the sum of five thousand dollars ($5,000.00). The bond shall be for the benefit of each and every person damaged by a breach of any condition set forth in the bond. Every pawnbroker shall provide the Village with thirty days’ notice in writing of the cancellation of the bond.

**Section 4. PERMIT AND RENEWAL**

1. **Permit.** A Permit shall issue unless:
   * 1. There is a current suspension or revocation of a prior permit issued to the applicant.
     2. The applicant has been convicted of a felony.
     3. The Application required by Section 3(A) is not complete.
2. **Responsibilities Upon Obtaining a Permit**.
3. Every Pawnbroker must register with the local law enforcement agency and follow the provisions of NMSA Section 56-12-9.
4. Permits must be conspicuously displayed in the pawnbroker’s place of business.
5. **Renewal of Permit.**
6. Permits shall expire on July 1 of each year and must be renewed by application in writing before that date.
7. Changes in agents, servants, or employees must be listed with each renewal application.
8. The bond and permit fee required by Section 3 (C) and (D) must be included.

**Section 5. SUSPENSION OR REVOCATION OF PERMIT**

1. **Notice.**
   * 1. The Village may institute proceedings for the suspension or revocation of any permit issued pursuant to this Ordinance upon the filing of a written complaint by the local law enforcement agency or the Attorney General charging the permitted business or any of its employees with having violated any provision of the Pawnbrokers Act or this Ordinance.
     2. The Village shall serve written notice upon the permit holder of the alleged violation and the date and time of the hearing not more than ten days nor less than five days following the date of notice. Notice may be accomplished by personal service on the permit holder or posting in a conspicuous place at the place of business.
2. **Hearing.**
   * 1. A hearing will be held before a quorum of the Board of Trustees.
     2. The permit holder and any other interested person shall have the right to appear and produce evidence. The rules of evidence shall not apply.
     3. If violation(s) are found, the Board shall issue, serve upon the permit holder in accordance with Section 5(A)(ii), and file with the Clerk for public inspection its written order within five business days after the hearing.
     4. The official serving the order shall remove the permit from the premises and deliver the permit to the Clerk/Treasurer.

**Section 6. SEVERABILITY**

If any section, subsection, sentence, clause, word or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of the fact that any one or more section, sub-section, sentence, clause, word or phrase thereof be held unconstitutional or otherwise invalid.

**Section 7. REPEAL.**

Any prior Ordinance concerning the permitting of pawnbrokers is hereby repealed.

**PASSED**, **APPROVED**, and **ADOPTED** this ­­­­­­ day of , 2019.

Approved:

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Richard Rumpf, Mayor Katherine Stout, General Counsel as to legal sufficiency

Attested:

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Veronica Chavez, Village Clerk/Treasurer