



Saint Regis Mohawk Tribe

Chief Margaret Terrance
Chief Barbara A. Lazore
Chief James W. Ransom
Sub-Chief Rita Swamp
Sub-Chief Emily Lauzon
Sub-Chief Ronald LaFrance, Jr.

TRIBAL COUNCIL RESOLUTION
TCR 2005 - 27
SAINT REGIS MOHAWK TRIBE
PAWNBROKER ORDINANCE

WHEREAS, the Saint Regis Mohawk Tribal Council is the duly recognized governing body of The Saint Regis Mohawk Tribe; and

WHEREAS, the Saint Regis Mohawk Tribe is responsible for the health, safety, education and General welfare of all Tribal members; and,

WHEREAS, by virtue of its status as a Federally Recognized Tribe, the Saint Regis Mohawk Tribal Council is authorized to regulate businesses located on the Saint Regis Mohawk Indian Reservation, hereinafter referred to as "the Reservation"; and

WHEREAS, the Saint Regis Mohawk Tribal Council deems it essential to the economic Security, political integrity and general welfare of the Saint Regis Mohawk Tribe to regulate businesses located on the Reservation so as to ensure that the appropriate business and safety standards are met; and

WHEREAS, there currently exists one pawn shop on the Reservation that may be regulated by the Saint Regis Mohawk Tribal Council; now

THEREFORE BE IT RESEOLVED, the Saint Regis Mohawk Tribal Council does hereby promulgate and enact the following Pawnbroker Ordinance

SAINT REGIS MOHAWK TRIBAL COUNCIL

James W. Ransom
James W Ransom Tribal Chief

Margaret Terrance Tribal Chief

Barbara A. Lazore
Barbara Lazore Tribal Chief

CERTIFICATION; THIS IS TO CERTIFY THAT THE ABOVE RESOLUTION WAS DULY PASSED BY THE SAINT REGIS MOHAWK TRIBAL COUNCIL PURSUANT TO THE AUTHORITY VESTED THEREIN.

Patricia Thomas
Patricia Thomas, Tribal Clerk

3-31-05
Date

**Saint Regis Mohawk Tribe
Pawnbroker Ordinance
Table of Contents**

I. TITLE.....1

II. DEFINITIONS.....1

III. LICENSE REQUIRED2

IV. ELIGIBILITY FOR LICENSE.....2

V. APPLICATION FOR LICENSE.....3

VI. SUSPENSION, REVOCATION AND SURRENDER OF LICENSE.....4

VII. PENALTIES AND FINES.....5

VIII. PAWNBROKER TRANSACTION FORM.....6

IX. RECORDKEEPING; REPORTING; HOLD PERIOD.....8

X. PAWN SERVICE CHARGES.....9

XI. PROHIBITED ACTS.....9

XII. RIGHT TO REDEEM, LOST PAWNBROKER’S TRANSACTION FORM.....11

XIII. HOLD ORDERS, ISSUANCE, REQUIRED INFORMATION, PROCEDURES.....11

XIV. MISCELLANEOUS PROVISIONS.....12

Saint Regis Mohawk Pawnbroker Ordinance

I. TITLE

This ordinance shall be known as the Saint Regis Mohawk Pawnbroker Ordinance.

II. DEFINITIONS

“amount financed” is the amount loaned or advanced.

“appropriate law enforcement official” means an officer of the Saint Regis Mohawk Police Department.

“claimant” means a person who claims that his or her property was misappropriated.

“default date” means the date upon which the pledgor’s right of redemption expires and absolute right, title and interest in and to the pledged goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law.

“identification” means a government-issued photographic identification.

“misappropriated” means stolen

“pawn” means any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on the terms and conditions agreed to.

“pawnbroker” means any person engaged in the business of loaning money on the security of deposits or pledges of personal property; or dealing in the purchase of personal property on condition of selling back at a stipulated price.

“pawnbroker transaction form” means the instrument on which a pawnbroker records pawns and purchases.

“pawn service charge” means a charge for investigating title, storage, and insuring of the security; closing the transaction; making reports to appropriate law enforcement officials; expenses and losses; and all other services.

“pawnshop” means the location at which a pawnbroker conducts business.

“person” means an individual, partnership, corporation, joint venture, trust, association, or other legal entity.

“pledged goods” means tangible personal property that is deposited with or delivered into the possession of a pawnbroker in connection with a pawn. It does not include titles or any other

form of written security in tangible property in lieu of actual possession, including certificates of title evidencing title to separate items of property, including motor vehicles. The pledgor's interest in pledged goods during the pendency of a pawn is the right of redemption only.

“pledgor” means an individual who delivers pledged goods into the possession of a pawnbroker in connection with a pawn.

“purchase” means the transfer and delivery of goods, by a person other than a permitted vendor, to a pawnbroker by acquisition for value, consignment or trade for other goods.

“weapons” may include but is not limited to a firearm silencer, firearms of any kind, disguised or not, switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, rifle, shotgun, cane sword, chuka stick or nunchakus, electronic dart gun, Kung Fu or Ninja stars, electronic stun guns, armor piercing ammunition, or any ammunition of any kind.

III. LICENSE REQUIRED

- A. A person shall not engage in business as a pawnbroker in the Akwesasne Mohawk Territory without first obtaining a license from the Saint Regis Mohawk Tribe.
- B. Each license is valid for one year from the date of issuance unless it is earlier relinquished, suspended, or revoked. Each license shall be renewed annually and each licensee shall initially and thereafter annually pay to the Saint Regis Mohawk Tribe a license fee of \$1,000.00 (one-thousand dollars). Licenses shall not be transferable from one physical location to another or from one person to another.
- C. The initial license shall be approved by the Saint Regis Mohawk Tribe, as represented by the Saint Regis Mohawk Tribal Council, thereafter, the Compliance Department is granted the authority to make any determinations regarding any suspensions, revocations, renewals, temporary, or conditional licenses and are also granted the authority to issue orders of suspension, revocation, to impose fines and penalties and to issue renewed, temporary, or conditional licenses.
- D. A licensee who seeks to move a pawnshop to another location must give the Compliance Department and the appropriate law enforcement official 30 days prior written notice and received pre-approval for the new location.
- E. A person must apply to the Compliance Department for a new license upon any change, directly or beneficially, in the ownership of any pawnshop

IV. ELIGIBILITY FOR LICENSE

- A. To be eligible for a pawnbroker's license, and applicant must:
 - 1. Be at least 21 years old;

2. Be an enrolled or eligible to be enrolled in the Saint Regis Mohawk Tribe;
3. Be of good moral character;
4. Not have been convicted of, found guilty of, or pled guilty or nolo contendere to, or been incarcerated for a felony or for a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years.
5. Must be in good standing with regard to any other Tribal licenses the applicant may hold.

V. APPLICATION FOR LICENSE

- A. An application for a license must state the following:
 1. Full name of applicant, including any former names or aliases
 2. Physical addresses and mailing address of applicant
 3. Physical address of business
 4. Address to which correspondence should be sent
 5. Phone number of applicant
 6. Any other relevant information required by the Compliance Department
- B. If the applicant is not the owner, the applicant must state the full name and address of each owner or partner in the business.
- C. Each application for a license shall be accompanied by a signed authorization and release form allowing the Compliance Department to conduct any background investigations it may deem necessary.
- D. When the application is received, the Compliance Department shall investigate the facts, determine if the application requirements are satisfied and then submit the application to the Saint Regis Mohawk Tribal Council for final approval. Upon Tribal Council approval the applicant will be notified and be required to pay the annual license fee of \$1,000.00 (one thousand dollars), and shall submit a copy of their certificate of insurance. The Compliance Department shall then issue a Tribal Pawnbroker License. The license must be prominently displayed at the front desk or counter of the pawnshop.
- E. If the application for a Tribal Pawnbroker License is denied, the applicant shall be notified in writing.

- E. Fees and fines collected pursuant to this regulation shall be deposited in the Tribal General Fund.

VI. SUSPENSION, REVOCATION AND SURRENDER OF LICENSE

- A. The Compliance Department may, after providing the licensee a Notice of Violation or Noncompliance and an opportunity to be heard, suspend or revoke any license upon a finding that:
 - 1. The licensee, either knowingly or negligently violated this regulation or aided or conspired with another person to violate this regulation;
 - 2. A condition exists, that had it existed when the license was issued, would have justified the Saint Regis Mohawk Tribe's refusal to issue a license;
 - 3. The licensee or its agents or employees who are subject to the eligibility requirements no longer meet the eligibility requirements to hold a pawnbroker's license;
 - 4. The licensee has through gross negligence or willful noncompliance, failed to comply with a written hold request made by an appropriate law enforcement official.
- B. The Compliance Department may conditionally license, reprimand or place on probation a person whose license has been suspended for a violation of this regulation.
- C. A Notice of Noncompliance or Violation shall be mailed by certified or registered mail to the licensee or may be hand-delivered by an officer of the Compliance Department who shall fill out and sign a declaration that such notice was delivered.
- D. An opportunity to be heard shall consist of a meeting with the Director of Compliance wherein the licensee may present any evidence, which may contradict or otherwise give cause for the Compliance Department to re-evaluate the notice of violation or noncompliance issued. After such meeting, the Compliance department, if appropriate, shall issue a Determination of Violation or Noncompliance and shall assess the appropriate fines or penalties.
- E. Any licensee may surrender a license by delivering it by hand or by mailing it certified or registered mail to the Compliance Department with written notice of its surrender. All operation of the licensee's pawnshop shall cease immediately upon the mailing or delivery of the notice of surrender. The surrender of a license does not affect the civil or criminal liability of the licensee for acts committed before the surrender of the license.
- F. The revocation, suspension or surrender of a license does not impair or affect the obligation of any pre-existing lawful contract between the licensee and any pledgor. Any pawn transaction made by a person without benefit of a license is voidable, in which

case, the person forfeits the right to collect any money, including principal, interest and charges, from the pledgor and is obligated to return to the pledgor the pledged goods.

- G. The Compliance Department may reinstate a suspended license or issue a new license to a person whose license had been revoked if it determines that no fact or condition exists that would have justified the Compliance Department in originally refusing to issue a license.
- H. Any determination of the Compliance Department is appealable to the Saint Regis Mohawk Tribal Council, upon written request. The decision of the Saint Regis Mohawk Tribal Council in any matter appealed from the Compliance Department is final and is not subject to further appeal.

VII. PENALTIES AND FINES

- A. The Compliance Department may enter an order imposing one or more fines or penalties set forth in paragraph B of this section if the Compliance Department finds that a pawnbroker:
 - 1. Violated or is operating in violation of any provisions of this regulation or of the rules adopted or orders issued pursuant to this regulation;
 - 2. Made a material false statement in any application, document, or record required to be submitted or retained;
 - 3. Refused or failed to produce any document or records or disclose any information required to be produced or disclosed pursuant to this regulation;
 - 4. Made a material false statement in response to any request or investigation by the Compliance Department or any law enforcement official;
 - 5. Has intentionally defrauded the public through dishonest or deceptive means.
- B. If the Compliance Department makes a finding as set forth in paragraph A of this section, the Compliance Department may enter an order doing one or more of the following:
 - 1. Issuing a Notice of Noncompliance or Violation;
 - 2. Imposing a fine not to exceed \$5,000 for each act, which constitutes a violation of this regulation, a rule or an order;
 - 3. Directing that the pawnbroker cease and desist specified activities;
 - 4. Refusing to license or revoking or suspending a license;

5. Placing the licensee on probation for a period of time, subject to such conditions as the Compliance Department shall specify.
- C. If the Compliance Department enters an order pursuant to Paragraph B of this section, such order shall be evidence of a lack of good standing and may be considered in other licensing determinations.
 - D. The remedies provided for in this regulation shall be in addition to any other remedy or right of action provided by Tribal, State or Federal Law.

VIII. PAWNBROKER TRANSACTION FORM

- A. At the time the pawnbroker enters into any pawn or purchase transaction, the pawnbroker shall complete a pawnbroker transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the pledgor or seller shall sign such completed form. The pawnbroker transaction form shall be created in triplicate. The Compliance Department must approve the design and format of the pawnbroker transaction form, which must be 8 ½ inches x 11 inches in size and elicit the information required under this section. In completing the pawnbroker transaction form, the pawnbroker shall record the following information, which must be typed or legibly written in the English language.
- B. The front of the pawnbroker transaction form must include:
 1. The name and address of the pawnshop.
 2. A transaction form number, which shall be in sequential order. The transaction form number may be created as a duplicate set of peel-off labels that may be affixed to the pawnbroker transaction form and to the actual item pawned or purchased.
 3. A complete and accurate description of the pledged goods or purchased goods, including the following information if applicable:
 - a. Categorization of the item, i.e. electronics, jewelry, tools, etc.
 - a. Brand name
 - b. Model number
 - c. Manufacturer's serial number
 - d. Size
 - e. Color
 - f. Precious metal type, weight and content, if known
 - g. Gemstone description, including number of stones
 - h. Any other unique identifying marks, numbers, names or letters
 4. In the case of jewelry, a photograph of the piece shall be taken upon purchase or pawn and shall be securely attached to the pawnbroker's copy of the pawnbroker transaction form.

5. The name, physical and mailing address, home telephone number, place of employment, date of birth, and physical description of the pledgor or seller.
6. The type of picture identification accepted from the pledgor or seller, including the issuing agency and identification number. A photocopy of the accepted picture identification of the pledgor or seller shall be taken and securely attached to the pawn pawnbroker's copy of the pawnbroker transaction form.
7. Date and time of transaction
8. In the case of a PAWN:
 - a. The amount of money loaned, which must be designated as the amount financed;
 - b. The default date of the pawn, which must be 30 days after the date of the pawn;
 - c. The amount due on the default date;
 - d. The total service charge payable on the default date, which must be designated as the finance charge;
 - e. The amount financed plus the finance charge that must be paid to redeem the pledged goods on the default date which must be designated as the total of payments;
 - f. The annual percentage rate;
 - g. The front or back of the pawnbroker transaction form must include a statement that:
 - 1) Any personal property pledged to a pawnbroker within the Territory of Akwesasne which is not redeemed within 30 days following the default date of the pawn, if the 30th day is not a business day, then the following business day, is automatically forfeited to the pawnbroker, and absolute right, title and interest in and to the property vests in and is deemed conveyed to the pawnbroker and no further notice is necessary;
 - 2) The pledgor is not obligated to redeem the pledged goods;
 - 3) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by mail, or in person as evidenced by a signed receipt.
 - 4) A pawn may be extended upon mutual agreement of the parties.

9. In case of a PURCHASE, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction, as well as the date on which the item will be available for sale or disposal, which date shall be at least 30 days after the purchase transaction.
 10. A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction.
- C. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged:
1. Shall be immediately reported to the Saint Regis Mohawk Tribal Police Department;
 2. Shall not be allowed to use any of the services the pawnshop offers and shall have their photo placed in plain view for the reference of all pawnshop employees. Their name may also be placed on an alphabetical listing for quick reference by pawnshop employees.
- D. At the time of the pawn or purchase transaction, the pawnbroker shall deliver to the pledgor or seller an exact copy of the completed pawnbroker transaction form.

IX. RECORDKEEPING; REPORTING; HOLD PERIOD

- A. A pawnbroker must maintain a copy of each completed pawnbroker transaction form on the pawnshop premises for at least 1 year after the date of the transaction. Copies shall be maintained so as to ensure quick and easy review and retrieval of information. The pawnbroker transaction number shall be securely affixed to all items pawned or purchased.
- B. A pawnbroker must keep a ledger or logbook of ALL transactions, including the name, physical description, physical address, and phone number of anyone who purchases an item, whether pawned or sold to the pawnshop. A separate logbook or ledger of all purchasers may be kept and shall only be open to inspection by an appropriate law enforcement official. If desired, the ledger or logbook may be kept on a computer. The ledger or logbook must be cross-referenced with the transaction number on the relevant pawnbroker transaction form.
- C. All goods delivered to a pawnbroker in a pawn or purchase transaction must be securely stored and maintained in an unaltered condition within the territorial jurisdiction of the Saint Regis Mohawk Tribe for a period of 30 calendar days after the transaction.
 1. Goods sold to a pawnbroker in a PURCHASE transaction may not be sold or otherwise disposed of before 30 calendar days.

2. In a PAWN transaction, the pledgor may redeem the pledged goods within the first 30 days or must make arrangements with the pawnbroker to extend the time to redeem. If no arrangements are made between the pawnbroker and the pledgor, and pledged goods are not redeemed on or before the default date, the pledged goods are automatically forfeited to the pawnbroker, and absolute right, title and interest in and to the property vests in and is deemed conveyed to the pawnbroker and no further notice is necessary. Without mutually agreed upon arrangements, which shall be in writing, there is no additional waiting period beyond the first 30 days.
- D. Within this 30-day time period, it is the pawnbroker's responsibility to contact the appropriate law enforcement official to determine if any of the items have been misappropriated.

X. PAWN SERVICE CHARGES

- A. In a pawn transaction, a pawnbroker may contract for and receive a pawn service charge as follows:
1. Interest component of the pawn service charge shall not exceed 1.5 percent of the amount financed for each 30-day period in a pawn transaction.
 2. The total amount of the pawn service charge, including interest, shall not exceed 25 percent of the amount financed for each 30-day period in a pawn transaction, except that the pawn broker is entitled to receive a minimum of \$5.00 for each 30 day period.
- B. The default date of a pawn may be extended by mutual agreement of pawnbroker and pledgor. Such extension shall be evidenced by written memorandum, a copy of which must be supplied to pledgor and which shall clearly indicate the new default date and the pawn services charges owed on the new default date. The pawn service charge for the extension shall be the equivalent of that charged for the original 30-day period. There is no limit on the number of extensions the parties may enter into.
- C. If pledged goods are redeemed within the original 30-day period, a pawnbroker is entitled to the amount specified in paragraph A of this section. Any unused pawn service charge paid in advance by the pledgor shall be refunded by the pawnbroker.
- D. Any interest, charge or fees contracted for or received, directly or indirectly, in excess of the amounts authorized are prohibited, may not be collected and render the pawn transaction voidable.

XI. PROHIBITED ACTS

- A. A pawnbroker, employee or agent of a pawnbroker may not:
1. Falsify or intentionally fail to make an entry of any material matter in a pawnbroker transaction form.

2. Refuse to allow an appropriate law enforcement official, a member of the Compliance Department, or any other official whose assistance has been requested by the Saint Regis Mohawk Tribal Police or the Compliance Department, to inspect completed pawnbroker transaction forms, the ledger or logbook, or pledged or purchased goods during regular business hours or at a time mutually acceptable to all parties. The appropriate law enforcement official shall disclose to a claimant the name and address of the pawnbroker, the name and address of the conveying customer, and a description of pawned or purchased goods that the claimant claims to be misappropriated.
3. Obliterate, destroy or discard a completed pawnbroker transaction form sooner than 3 years after the date of the transaction. Completed pawnbroker transaction forms must be kept on site for a period of 1 year following the transaction.
4. Accept a pledge or purchase of property from a person under the age of 18 years.
5. Knowingly enter into a pawn or purchase transaction with any person who is under the influence of alcohol or a controlled substance when such condition is apparent.
6. Fail to return or replace pledged goods to a pledgor upon payment of the full amount due to pawnbroker, unless the goods have been placed on hold.
7. Sell or otherwise charge for insurance in connection with a pawn transaction.
8. Engage in title loan transactions.
9. Lease pledged goods to the pledgor or any other party.
10. Operate a pawnshop between the hours of 10:00pm and 7:00am.
11. Knowingly hire anyone to work in a pawnshop who has been convicted of, found guilty of, or pled guilty or nolo contendere to, or has been incarcerated for a felony or for a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years.
12. Knowingly hire anyone to work in a pawnshop who is under the age of 18 years.
13. Knowingly accept or receive misappropriated property from a conveying customer in a pawn or purchase transaction.
14. Engage in the pawn or purchase of explosives, fireworks, drug paraphernalia, or weapons as defined above.

XII. RIGHT TO REDEEM, LOST PAWNBROKER'S TRANSACTION FORM

- A. Only a pledgor or a pledgor's authorized representative is entitled to redeem the pledged goods described in the pawnbroker transaction form. If the pawnbroker determines that the person is not the original pledgor and is not otherwise authorized, the pawnbroker is not required to allow the redemption. The person redeeming must sign the pledgor's copy of the pawnbroker transaction form, which the pawnbroker may retain as evidence of the person's receipt of the pledged goods. A pledgor's representative must present written authorization from the original pledgor and the pawnbroker shall record the person's name and address on the pawnbroker transaction form. It is the responsibility of the pawnbroker to verify that the person redeeming pledged goods is authorized to do so.
- B. If a pledgor's copy of the form is lost, destroyed or stolen, the pledgor must notify the pawnbroker in a written statement. The pawnbroker must record on this written statement the date and the number of the pawnbroker transaction form lost, stolen or destroyed. A photocopy of the person's picture identification must be attached and the statement must be signed by the pawnbroker or employee who accepts the statement from the pledgor. A fee of no more than \$2.00 may be charged for each lost, stolen or destroyed pawnbroker transaction form.
- C. If pledged goods are lost or damaged while in possession of the pawnbroker, the pawnbroker must fully compensate pledgor or replace the lost or damaged goods with that of equal value. Such replacement is a defense to any civil action based upon loss or damage of the pledged goods.

XIII. HOLD ORDERS, ISSUANCE, REQUIRED INFORMATION, PROCEDURES

- A. When an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated, the official may place a written hold order on the property. The hold order shall impose a holding period for not more than 90 days. The appropriate law enforcement official may rescind any hold order.
- B. Upon expiration of the holding period, if the appropriate law enforcement official has not notified the pawnbroker of any extension, title to the property shall vest in the pawnbroker unless the property is still the subject of restrictions contained in a valid pawn transaction contract.
- C. A hold order must specify:
 - 1. The name and address of the pawnbroker
 - 2. The name, title, and identification number of the appropriate law enforcement official placing the hold order
 - 3. Name and address of official's department and any case number assigned

4. A complete description of the property to be held, including model number and serial number if applicable.
 5. Name of the person reporting the property to be misappropriated, unless otherwise prohibited by law.
 6. Mailing address of the pawnshop.
 7. Expiration date of the holding period.
- D. The pawnbroker or representative must sign and date a copy of the hold order as evidence of receipt of the holder and the beginning of the holding period.
- E. A pawnbroker may not release or dispose of property subject to a hold order except pursuant to an order from a court having jurisdiction over the matter in question. The release of property to the custody of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker's property rights or interest in the property.

XIV. MISCELLANEOUS PROVISIONS

- A. No individual or entity shall be issued more than two licenses per DBA
- B. If any provision of this ordinance or its application is held to be invalid, the remainder of the ordinance shall not be affected.
- C. The Compliance Department will propose and the Saint Regis Mohawk Tribal Council may adopt regulations and forms necessary to implement the provisions of this ordinance.
- D. This Tribal ordinance may be amended by a Tribal Council Resolution to allow for any changes or updates should it be deemed necessary.