

## Chapter 24

# PAWNBROKERS, SECONDHAND GOODS AND PRECIOUS METAL DEALERS

### 3-24-1: PURPOSE; ADOPTION BY REFERENCE:

The city council finds that pawnbrokers, secondhand goods dealers, precious metal dealers and other resellers of certain items potentially provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly.

The purpose of this chapter is therefore to prevent these businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city.

The provisions of state law applicable to and regulating pawnbrokers and precious metal dealers, including Minnesota statutes chapters 325F and 325J, are hereby adopted and incorporated herein and made a part of this code as completely as if set out in full. (Ord. 1204, 6-8-2010)

### 3-24-2: DEFINITIONS:

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

**ANTIQUÉ:** Any secondhand good the value of which, in whole or substantial part, is derived from its age or its historical association and exceeds the original value of the item when new.

**ANTIQUÉ DEALER:** Any dealer, whose regular business includes selling or receiving secondhand goods where at least ninety percent (90%) of the goods on hand at all times, measured according to value, consist of antiques.

**AUCTION HOUSE DEALER:** Any dealer whose regular business includes selling or receiving secondhand goods some or all of which are offered for sale for the highest bid or offer tendered. If the sale is conducted by means of an auction, the auctioneer must be properly licensed and bonded in accordance with applicable laws.

**AUTOMATED REPORTING SYSTEM (ARS):** A computer database or service, approved for use by licensees by the chief of police, accessible from remote location, designed to input and retrieve data on transactions involving secondhand goods or items.

**BILLABLE TRANSACTION:** Every recorded or reportable transaction except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession is a billable transaction.

**COIN DEALER:** A dealer whose regular business includes the buying, selling, and trading of coins,

stamped metal, monetized bullion or commercial grade ingots of gold, or silver. The coins may be legal tender or otherwise and may be made of precious metals, gold, silver or platinum.

**COMPUTERS OR COMPUTER RELATED EQUIPMENT:** Business or computer equipment including workstations, laptops and servers and related equipment such as printers, scanners, faxes, monitors and copiers.

**CONSIGNMENT:** An agreement between a dealer and a seller that enables the dealer to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public.

**CONSIGNMENT HOUSE DEALER:** A dealer in secondhand goods acquired by a consignment agreement.

**DEALER:** Any person whose regular business includes the purchase of goods, wares or merchandise for the purpose of selling them at wholesale or retail to any qualified purchaser.

**ELECTRONIC AUDIO OR VIDEO EQUIPMENT:** Televisions, radios, stereos, audio or video players and recorders, cameras, camcorders and like equipment but excluding musical instruments and their related amplification equipment.

**FIREARMS:** A gun that discharges shot or a projectile by means of an explosive or a gas. For purposes of this chapter, the definition includes all rifles, pistols, shotguns and similar weapons as provided in Minnesota statutes 624.712, but excludes those devices firing or ejecting a shot measuring 0.18 of an inch, or less in diameter and commonly known as a "BB gun" or air rifle.

**FLEA MARKET:** Any group of five (5) or more unrelated persons or businesses selling secondhand goods to the public from a single physical location.

**INTERNET AUCTION:** The sale of merchandise on the world wide web, or internet, by a person who is registered with and assigned a designated account or user name by the internet website hosting the auction.

**ISSUING AUTHORITY:** The city of Burnsville.

**ITEM:** Any single physical article; however, with respect to a commonly accepted grouping of articles that are purchased as a set and have greater value as a set than the combined value of its components set if sold individually, the term "item" shall refer to the set.

**ITEM CONTAINING PRECIOUS METAL:** An item made in whole or in part of metal and containing more than one percent (1%) by weight of silver, gold, or platinum.

**JEWELRY:** Objects of precious metals often set with precious stones but excluding costume jewelry. The term includes all watches.

**LICENSED PREMISES:** The compact and contiguous premises described in the approved license issued by the city's issuing authority.

**LICENSEE:** All secondhand dealers and pawnbrokers regulated by this chapter, to whom a license is issued under this chapter, including any agents or employees of the person.

**PAWN TRANSACTION:** Any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

**PAWNBROKER:** A person engaged in whole or in part in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, except those excluded by Minnesota statutes 325J.01. To the extent that a pawnbroker business includes buying personal property previously used, rented, or leased, the provisions of this chapter shall be applicable.

**PAWNSHOP:** The location at which or premises in which a pawnbroker regularly conducts business.

**PERSON:** An individual, partnership, limited liability partnership, corporation (foreign, domestic, or nonprofit), limited liability company, joint venture, trust, association, or any other legal entity, however organized.

**PLEGGED GOODS:** Tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

**POWER TOOLS:** Any device, either portable or stationary, equipped with an engine motor, battery or other means of operation, including machine, carpentry and industrial tools or surveying equipment, but excluding unpowered hand tools.

**PRECIOUS GEMS:** Any gem that is valued for its character, rarity, beauty, or quality, including diamonds, rubies, emeralds, sapphires, or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item.

**PRECIOUS METAL DEALER:** Any natural person, partnership, or corporation, either as principal or agent, engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.

**PRECIOUS METAL ITEM:** Coins with a numismatic value or intrinsic value greater than its denominational value, precious gems, gold, silver, platinum, and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent (1%) of the item's total weight.

**PRECIOUS METALS:** Silver, gold, and platinum.

**RECEIVE:** To purchase, accept for sale, on consignment, broker or receive in trade for an item of equal or lesser value.

**RECORDED OR REPORTABLE TRANSACTION:** Transactions conducted by a pawnbroker, secondhand goods or precious metals dealer in which "secondhand goods" as defined in this section are received through a pawn, purchase, or consignment, except:

(A) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer, nonprofit or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker, secondhand goods or precious metals dealer, must maintain a record of such purchase; or

(B) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired; or

(C) Trades of secondhand goods for items of greater value; or

(D) Transactions in which a pawn is renewed, extended, or redeemed.

**SECONDHAND GOODS:** Tangible personal property, previously owned, used, rented, or leased by a person other than the dealer offering it for sale, including:

(A) Electronic audio or video equipment;

(B) Firearms;

(C) Power tools;

(D) Computers or computer related equipment;

(E) Jewelry; coins, and precious metals.

**SECONDHAND GOODS DEALER:** Any person whose regular business includes selling or receiving secondhand goods, including auction house dealers, consignment house dealers, flea market dealers and antique dealers, but not including used car sales involving vehicles with titles requiring registration with the Minnesota department of motor vehicles under Minnesota statutes chapter 168 or boats required to be registered with the department of natural resources.

**UNIQUE IDENTIFIER:** A serial number, identification number, model number, owner applied identifier or engraving, "operation ID" number or symbol, or other unique marking. (Ord. 1204, 6-8-2010)

### **3-24-3: LICENSE REQUIRED:**

(A) No person shall exercise, carry on or be engaged in the trade or business of pawnbroker, secondhand goods dealer, precious metal dealer or other reseller of "secondhand goods", as defined in this chapter, on a permanent, occasional or temporary basis, within the city unless such person is currently licensed under this chapter. Any pawn, secondhand goods or precious metal transaction involving secondhand goods or items regulated by this chapter made without benefit of a valid license shall be a misdemeanor and is void.

(B) An antique dealer, auction house dealer, consignment house dealer, flea market or other group of businesses operating collectively at a single site may apply for a single license.

(C) Persons who are residents, tax exempt, nonprofit public charitable organizations, tax exempt political organizations or tax exempt, nonprofit civic organizations may conduct the occasional sale of secondhand goods at events commonly known as "garage sales", "yard sales", "moving sales", "fundraiser sales", or "estate sales" without registering with the city under this chapter where all of the following are present:

1. The sale is held on real property located within the city that is occupied as a dwelling by one of the sellers or owned, rented or leased by the charitable, political, or civic organization;
2. The persons conducting the sale own the items offered for sale and receive all the proceeds therefrom;
3. The sales event does not exceed a period of seventy two (72) consecutive hours with no more than four (4) sales events being held within a twelve (12) month period;
4. The sales event does not include the sale of firearms.

(D) Businesses conducting transactions as part of a direct marketing business, where purchases are made outside the city and resold to persons or organizations outside the city will not be subject to this chapter. (Ord. 1204, 6-8-2010)

### **3-24-4: LICENSE APPLICATION:**

Every application for a license under this chapter shall be made on a form supplied by the city. (Ord. 1204, 6-8-2010)

### **3-24-5: APPLICATION VERIFICATION:**

Applications for licenses shall be referred to the police department for verification and investigation of the facts set forth in the application. The police department shall make a written report and recommendation to the city council as to issuance or nonissuance of the license. The city council may order and conduct such additional investigation as it deems necessary. If additional investigation is necessary, the applicant shall pay the city the cost for the additional investigation. The license shall not be issued until any additional investigation costs are paid. (Ord. 1204, 6-8-2010)

### **3-24-6: APPLICATION CONSIDERATION:**

(A) Hearing: The city council shall conduct a public hearing on the license application within a reasonable period following receipt of the police department's report and recommendation regarding the application. After the hearing or hearings on the application, the city council may, in its discretion, grant or deny the application.

(B) Denial: Any license under this chapter may be denied for one or more of the following reasons:

1. The proposed use does not comply with the Burnsville zoning code;
2. The premises do not comply with any health, building, building maintenance, or other provisions of this code or state law;
3. The applicant or the owner of the premises is ineligible for a license or has failed to comply with one or more provisions of this chapter;
4. The applicant has committed fraud or bribery, or made misrepresentations or false statements, in the application, investigation, or operation of the applicant's business.

(C) Certificate Of Occupancy Required: If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

(D) Delinquent Taxes, Assessments, And Utility Bills: No license shall be approved if any taxes, utility bills, assessments or other city charges are delinquent. At no additional cost, applicant shall have the right to appeal a denial of a license to the city council, based upon this subsection. (Ord. 1204, 6-8-2010)

### **3-24-7: LICENSE PERIOD, EXPIRATION:**

Each renewal license shall be issued for a maximum period of one year. All licenses issued under this chapter shall expire on June 30 of each year. (Ord. 1348, 8-3-2015)

### **3-24-8: FEES:**

The city council by ordinance may establish fees for licensure under this chapter, including an application fee, license fee, and investigation fee. Licensees shall be notified in writing thirty (30) days before any fee adjustment is implemented. All new applications must be accompanied by payment in full of the annual license fee as well as the application and investigation fees. All renewal license applications must be accompanied by payment in full of renewal application fee. Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired. A license may be revoked for failure to comply with any provision in this code. A separate license is required for each place of business. No expiration, revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor. (Ord. 1204, 6-8-2010)

### **3-24-9: GENERAL REGULATIONS FOR LICENSEES:**

(A) Records Required: For all transactions involving "secondhand goods" as defined by this chapter, by licensee businesses, the licensee shall record, at the time of a receipt, sale or redemption of an item, using the English language, using ink or in an indelible medium, on forms or in a computerized record in a format compatible with ARS, approved by the chief of police, the following information:

1. Description Of Property: A complete and accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such item;
2. Date, Time, And Place: The date, time, and place the item of property was received by the pawnbroker or dealer;
3. Amount Paid: The purchase price, amount of money loaned upon, or pledged therefor;
4. Description Of Customer: The full name, residence address, residence telephone number, date of birth and reasonably accurate description of the person from whom the item or property was received, including: sex, height, weight, race, color of eyes, and color of hair;
5. Identification: The identification number from one of the following forms of identification of the person from whom the item was received:
  - a. A current valid Minnesota driver's license;
  - b. A current valid Minnesota identification card;
  - c. A current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received or province of Canada;
6. Signature: The signature of the person pledging or selling the item;
7. Fees And Charges: The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

(B) Color Photographs Or Color Video Standards By Licensees:

1. Photographs Or Recordings Of Customers And Items: A licensee must also take a color photograph or a color video recording of the same quality as a color photograph of:
  - a. Each customer involved in a reportable transaction;
  - b. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed;
2. Digital Or Film Photograph: If a photograph is taken, either digital or film type, it must be at least two inches (2") in length by two inches (2") in width and must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph must include an

identifiable facial closeup of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises;

3. Video Photograph: If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable closeup of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the customer of the videotaping by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three (3) months;
4. Digitized Photographs: Effective sixty (60) days from the date of notification by the chief of police, or the chief's designee, a licensee may fulfill the color photograph requirements in this section by submitting them as digital images, in a format specified by the issuing authority, electronically cross referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in this section.

#### (C) Reports To Police:

1. Posted Notice: A licensee must display a sign of sufficient size, and in a conspicuous place in the premises, so as to inform all patrons that all transactions are recorded and reported to the police department daily. Licensees must also post their license in a conspicuous location.
2. Suspicious Property: A licensee business must immediately report to the city police department any article sold or received or sought to be sold or received, if the licensee has reason to believe that the article was stolen or lost. No licensee shall receive or accept any item of property that contains an altered, obliterated, or obviously removed serial number or unique identifier.
3. Method: Licensees must provide to the police department the information required in subsections (A)1 through (A)7 of this section, in writing, on forms approved by five o'clock (5:00) P.M. the next business day (Monday through Friday) following the date of the transaction.

Effective ninety (90) days after the chief of police or chief's designee provides licensees with computerized record standards, or ARS data input standards, dealers that require licenses under this chapter must submit every reportable transaction to the police department daily in the following manner:

- a. Provide to the police department the information required in subsections (A)1 through (A)7 of this section, by transferring it from their computer to the police department or ARS via modem, internet, or other electronic means acceptable to the police department. The police department shall inform the licensee of how the data will be provided.
4. Records Retained: The required records in this section shall be retained by the licensee for at least four (4) years.

(D) Holding Period: Any recordable or reportable item purchased by a licensee business must not be sold or otherwise transferred for fourteen (14) days from the date of the transaction. For items pawned, an individual may redeem an item seventy two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

**(E) Police Order To Hold Property:**

1. **Investigative Hold:** Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued pursuant to subsection (E)2 of this section, whichever comes first.
2. **Order To Hold:** Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief of police or the chief's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.
3. **Order To Confiscate:** If an item is identified as stolen or evidence in a criminal case, the chief of police or chief's designee may:
  - a. Physically confiscate and remove it from the shop, pursuant to a written order from the chief of police or the chief's designee, or
  - b. Place the item on hold or extend the hold as provided in subsection (E)2 of this section, and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the police department and police officer, and the case number related to the confiscation. In the case of a confiscation, the chief of police or the chief's designee shall promptly return items to the licensee.

When an order to hold or confiscate is no longer necessary, the chief of police, or the chief's designee shall so notify the licensee upon conclusion of the investigation or case.

- (F) Label Required:** Licensees must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused. As an alternative to using a label with the required information, a label with a bar code containing the information may be used.

**(G) Prohibited Acts:**

1. No person under the age of eighteen (18) years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee business receive any goods from a person under the age of eighteen (18) years.
2. No licensee business may receive any goods from a person of unsound mind or an intoxicated person.

3. No licensee may receive any recordable or reportable goods, unless the seller presents identification in the form of a valid driver's license, a valid state of Minnesota identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.
4. No licensee business may receive any item of property that possesses an altered or obliterated serial number or "operation identification" number or any item or property that has had its serial number removed.
5. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest, with any licensee.
6. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee business shall give a false or fictitious name, nor give a false date of birth, nor give a false or out of date address of residence or telephone number, nor present a false or altered identification, or the identification of another, to any licensee.

(H) Inspection Of Items And Premises: The pawnbroker or dealer shall, at all times during the term of the license period, allow the police department and other law enforcement authorities associated with the police department to enter the premises where the business is located during normal business hours except in the case of an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein for the purpose of verifying compliance with this chapter and other applicable laws or of locating items suspected or alleged to have been stolen or otherwise improperly disposed of.

(I) Prohibited Goods: No licensee under this chapter shall accept any item of property which contains an altered or obliterated serial number or "operation identification" number of any item of property whose serial number has been removed.

(J) Proper Identification: No licensee or dealer under this chapter shall accept recordable or reportable items of property unless the seller or pledgor provides to the licensee or dealer one of the following forms of identification:

1. A current valid driver's license;
2. A Minnesota identification card; or
3. A photo identification issued by the state of residency of the person from whom the item was received;
4. Military identification; or
5. Passports.

No other forms of identification shall be accepted. (Ord. 1204, 6-8-2010)

### **3-24-10: BUSINESS LOCATION:**

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the chief of police or the chief's designee may approve an off site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with subsection [3-24-9\(H\)](#) of this chapter. All provisions of this chapter regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of this code. The licensee must either own the building in which the business is conducted, and any approved off site storage facility, or have a lease on the business premises which extends for more than six (6) months. (Ord. 1204, 6-8-2010)

### **3-24-11: RESTRICTIONS REGARDING LICENSE TRANSFER:**

Each license under this chapter shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give, or assign a license to another person. Any change, directly or beneficially, in the ownership of any licensed business shall require the application for a new license and the new owner must satisfy all current eligibility requirements. If a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within fourteen (14) days. (Ord. 1204, 6-8-2010)

### **3-24-12: SUSPENSION OR REVOCATION OF LICENSE:**

(A) The city council may suspend or revoke a license issued under this chapter upon a finding of a violation of:

1. Any of the provisions of this chapter;
2. Any state statute regulating the licensee; or
3. Any state or local law relating to moral character and repute.

(B) A revocation or suspension by the city council shall be preceded by written notice to the licensee and a public hearing. (Ord. 1204, 6-8-2010)

### **3-24-13: BEST PRACTICES:**

The city will conduct educational classes upon passage of this revision and annually thereafter. Classes will cover topics to include: the purpose of this chapter, automated reporting system (ARS)

compliance, procedural compliance and crime prevention for retail businesses. Completion of this training will qualify a pawnbroker, secondhand goods dealer, precious metal dealer or other reseller of secondhand goods as a best practices business. (Ord. 1204, 6-8-2010)