

ORDINANCE NO. 2737

AN ORDINANCE REPEALING AND RECREATING SECTION 13.15
OF THE MUNICIPAL CODE RELATING TO PAWNBROKERS, SECONDHAND
ARTICLE DEALERS AND SECONDHAND JEWELRY DEALERS

The Common Council of the City of Greenfield do ordain as follows:

PART I. Section 13.15 of the Greenfield Municipal Code is repealed and recreated as follows:

13.15 Pawnbrokers, Secondhand Article Dealers and Secondhand Jewelry Dealers.

(1) Definitions. When used in this article, the following words shall mean:

(a) “Article” means any of the following:

1. Audiovisual equipment
2. Bicycles
3. China
4. Computers, printers, software, and computer supplies
5. Computer toys and games
6. Crystal
7. Electronic equipment and appliances
8. Firearms, knives, and ammunition
9. Fur coats and other fur clothing
10. Jewelry containing precious metals or precious stones
11. Office equipment
12. Pianos, organs, guitars and other musical instruments
13. Silverware and flatware
14. Telephones
15. Video discs and other optical media
16. Coins, bullion
17. Metal, mineral, or gem customarily regarded as precious or semiprecious
18. Golf clubs
19. Snow removal and lawn equipment
20. Motors
21. Paper money
22. Tools
23. Sports memorabilia with a resale value greater than \$100
24. Genuine designer handbags and designer sunglasses

- (b) **“Article”** as defined for this ordinance does not include clothing (other than genuine leather clothing and furs), books, video tapes, audio compact discs or sporting equipment other than golf clubs. A business required to report video tapes and compact discs under ss. 134.71(1)(g) of the Wisconsin Statutes shall be required to do so.
- (c) **“Billable transaction”** means:
1. Every reportable transaction conducted by a pawnbroker except renewals, redemptions or extensions of existing transaction conducted by a pawnbroker on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.
 2. Every reportable transaction by a pawnbroker, secondhand article dealer or secondhand jewelry dealer whose business began operation within the City of Greenfield after 06/01/2011. Pawnbrokers, secondhand article dealers or secondhand jewelry dealers operating within the City of Greenfield prior to 06/01/2011 are exempt from any transaction fees.
- (d) **“Charitable organization”** has the meaning specified in 134.71(1)(am) of the Wisconsin Statutes
- (e) **“Customer”** means a person with whom a transaction is conducted by a pawnbroker, secondhand article dealer or secondhand jewelry dealer, or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.
- (f) **“Pawnbroker”** means any person who engages in the business of lending money on the deposit or pledge of any article.
- (g) **“Secondhand Article Dealer or Secondhand Jewelry Dealer”** means any person who engages in the business of purchasing any article with an expressed or implied agreement or understanding to resell it at a subsequent time.
- (h) To the extent that a pawnbroker, secondhand article dealer or secondhand jewelry dealer's business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable.
- (i) A person is not acting as a pawnbroker, secondhand article dealer or secondhand jewelry dealer when engaging in any of the following:
1. Any transaction at an occasional garage or yard sale or an estate sale where the seller of the item is the homeowner or resident at the location of the yard sale and where such yard sale complies with the requirements set forth elsewhere in the municipal code.
 2. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor, as described in s. 70.995(2), Wis. Stats.

3. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
 4. Any transaction between a buyer of an article and the person or entity who originally sold the article that involves any of the following:
 - a. The return of the article for a refund.
 - b. The return of the article for credit toward a future purchase.
 - c. The exchange of the article for a different article.
 5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
 6. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
- (j) **“Reportable transaction”** means every transaction conducted by a pawnbroker, secondhand article dealer or secondhand jewelry dealer in which an article or articles are received by a pawnbroker, secondhand article dealer or secondhand jewelry dealer through purchase, consignment, or trade, or in which a previous pawn agreement is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, except:
1. The bulk purchase or consignment of new or used articles from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the subsequent retail sale of said articles, provided the pawnbroker, secondhand article dealer or secondhand jewelry dealer must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.
 2. Retail and wholesale sales of articles originally received by pawnbrokers, secondhand article dealers or secondhand jewelry dealers purchase, and for which all applicable hold and/or redemption periods have expired.
- (k) **“Secondhand”** means property owned by any person, except a wholesaler, retailer, or licensed secondhand article dealer or secondhand jewelry dealer, immediately before the transaction at hand.
- (l) **“Person in Charge”** means an employee who has undergone the background check requirements of 13.15(3).
- (2) **License Required.** No person may operate as a pawnbroker, secondhand article dealer or secondhand jewelry dealer unless the person first obtains a pawnbroker, secondhand article dealer or secondhand jewelry dealer license under this chapter.

For licenses issued after July 1, 2011, a person wishing to operate as pawnbroker, secondhand article dealer or secondhand jewelry dealer shall apply for a license to the city clerk. The clerk shall furnish application forms approved by the police department that shall require all of the following:

- (a) The applicant's name, place and date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application.
- (b) The name and address of the business and of the owner of the business premises.
- (c) For licensees subject to the requirements of section 134.71(1) of the Wisconsin Statutes: Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 - 1. If the applicant is a corporation, the state where incorporated and the name and address of all officers.
 - 2. If the applicant is a partnership, the state where the partnership is registered and the name and address of all partners.
 - 3. If the applicant is a limited liability company, the names and addresses of all members.
 - 4. The name, previous or maiden names, place and date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application, driver's license / identification card number and state of issue of the manager or proprietor and all employees who will act as a "Person in Charge" at the Greenfield location.
 - 5. Any other information the City Clerk may reasonably require.
- (d) For licensees not subject to the requirements of section 134.71(1) of the Wisconsin Statutes: Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 - 1. If the applicant is a corporation, the state where incorporated and the name and address of the corporation's registered agent.
 - 2. If the applicant is a partnership, the state where the partnership is registered and the name and address of the partnership's registered agent.
 - 3. If the applicant is a limited liability company, the names and addresses of all members.
 - 4. The name, previous or maiden names, place and date of birth, residence address, and residence addresses for the 10-year period prior to the date of the application, driver's license / identification card number and state of issue of the manager or proprietor and all employees who will act as a "Person in Charge" at the Greenfield location.
- (e) A statement as to whether the applicant has been convicted within the preceding 10 years of a felony or within the preceding 10 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.

- (f) A statement as to whether the manager or any “person in charge” has been convicted within the preceding 10 years of a felony or within the preceding 10 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.
- (g) Whether the applicant or any other person listed in 13.15(2)(c) above has ever used or been known by a name other than the applicant’s name, and if so, the name or names used and information concerning dates and places used.
- (h) Whether the applicant or any other person listed in subsection 13.15(2)(c) above has previously been denied or had revoked or suspended a pawnbroker, secondhand article dealer or secondhand jewelry dealer license from any other governmental unit in the State of Wisconsin. If so, the applicant must furnish information as to the date, location, and reason for the action.

(3) Investigation of license applicant. The police department shall investigate each applicant and any other person listed in subsection 13.15(2). The department shall furnish the information derived from that investigation in writing to the city clerk. The investigation shall include each individual or entity listed in 13.15(2)(c).

(4) License issuance. The city shall grant the license if all of the following apply:

- (a) The applicant, including an individual, a partner, a member of a limited liability company or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 10 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of being a pawnbroker, secondhand jewelry dealer, secondhand article dealer or secondhand article dealer mall or flea market owner.
- (b) No license issued under this subsection may be transferred.
- (c) Each license is valid from July 1st until the following June 30th.
- (d) Display of license. Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.
- (e) License fees. The annual license fees for licenses issued under this chapter shall be found in Section 3.12 of the municipal code.

(5) Records required. At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, every licensee must immediately record, in English, the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

- (a)** A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
- (b)** The purchase price, amount of money loaned upon, or pledged therefore.
- (c)** The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- (d)** Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.
- (e)** Full name, current residence address, current residence telephone number and date of birth and apparent sex of the individual.
- (f)** The identification number and state of issue from any of the following forms of identification of the seller:
 - 1. Current Wisconsin driver's license.
 - 2. Current State of Wisconsin identification card.
 - 3. Official government-issued passport.
 - 4. United States Military identification card.
 - 5. Current valid photo identification card issued by another state or province of Canada.
- (g)** The signature of the person identified in the transaction.
- (h)** Effective sixty (60) days from the date of notification by the police department of acceptable photographic or video standards, the licensee must also take a color photograph, color video recording or inked fingerprint impression of each customer involved in a billable transaction.
- (i)** Effective sixty (60) days from the date of notification by the police department of acceptable photographic or video standards, the licensee must also take a color photograph, color video recording of:

1. Every item a pawnbroker, secondhand article dealer or secondhand jewelry dealer has purchased that does not have a unique serial or identification number permanently engraved or affixed. This section does not apply to:
 - (a) Computer software.
 - (b) Computer or video games.
 - (c) DVD's or video discs.
 - (d) Loose precious stones.
 - (e) Golf clubs.

2. When a photograph is taken, it 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.
3. Photographs must be available to the chief of police, or the chief's designee, upon request.
4. The major portion of the photograph or recording must include an identifiable facial image of the person who pawned or sold the item.
5. Items photographed must be accurately depicted.

(j) Digitized photographs. Effective sixty (60) days from the date of notification by the police department licensees must fulfill the photograph requirements in section 13.15(5) by submitting them as digital images, in a format specified by the police department, electronically cross-referenced to the reportable transaction they are associated with.

(k) For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(6) Inspection of Records. Records must at all reasonable times be open to inspection by the police department. Data entries shall be retained for at least one (1) year from the date of transaction. Digital images or video recordings shall be retained a minimum of thirty (30) days.

(7) Daily reports to police. Licensees must submit every reportable transaction to the police department within 24 hours of the transaction. Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the NEWPRS System. All required records must be transmitted completely and accurately in accordance with standards and procedures established by the issuing authority.

(a) If a licensee is unable to successfully transfer the required reports to NEWPRS within 24 hours of the transaction, the licensee must provide the police department, upon request, printed copies of all reportable transactions along with the video recording(s) for that date, by noon the next business day after the failure occurred;

- (b) If the problem is determined to be in the licensee's system or with the licensee's internet connection, and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in section 13.15(5), and shall be charged a \$100.00 reporting failure penalty, daily, until the error is corrected; or
- (c) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in section 13.15(7), and resubmit all such transactions via the internet when the error is corrected.
- (d) If a licensee is unable to capture, digitize or transmit the photographs required in section 13.15(5)(i) , the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request.
- (e) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.
- (f) The police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.
- (8) **Receipt required.** Every pawnbroker must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for one (1) year. The receipt must include at least the following information:
 - (a) The name, address and telephone number of the licensed business.
 - (b) The date and time the item was received by the licensee.
 - (c) Whether the item was pawned or sold, or the nature of the transaction.
 - (d) An accurate description of each item received including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
 - (e) The signature or unique identifier of the licensee or employee that conducted the transaction.
 - (f) The amount advanced or paid.
 - (g) The monthly and annual interest rates, including all pawn and secondhand article dealers fees and charges.

- (h) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- (i) The full name, current residence address, current residence telephone number.
- (j) The signature of the pledger or seller.

(9) Redemption period. Any person pledging or depositing an item for security must have a minimum of sixty (60) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the sixty (60) day holding period, items may not be removed from the licensed location except as provided in 13.15(16). Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the chief of police, or chief's designee. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with 13.15(5). An individual may redeem an item seventy-two (72) hours after the item was received on deposit, excluding Sundays and legal holidays.

(10) Holding period. Except as provided in subsection 13.15(12), any item deposited with a pawnbroker for security shall be kept on the premises or other place of safe keeping for not less than 60 days after the date of purchase or receipt unless the person known by the pawnbroker to be the lawful owner of the article redeems it.

Any item purchased or received by a secondhand article dealer or secondhand jewelry dealer shall be kept on the premises or other place of safekeeping for not less than 10 days after the date of purchase or receipt.

- (a) During the period set forth in subsection 13.15(10), the article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the article during this period.
- (b) Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any article which is kept off the premises for safekeeping.
- (c) There is no holding period for gold and silver coins of greater than 80% purity and for gold or silver bullion.
- (d) All holding periods shall begin at the time the transaction is entered into NEWPRS regardless of the time of the actual transaction.

(11) Police order to hold property.

- (a) Investigative Hold: Whenever a law enforcement official from any law enforcement 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, whichever comes first.
- (b) 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 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.
- (c) Order to Confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or place the item on hold or extend the hold as provided in 13.15(12)(b), and leave it in the shop.
- (d) 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 confiscating agency and investigator, and the case number related to the confiscation.
- (e) When an order to hold/confiscate is no longer necessary, the chief of police or chief's designee shall so notify the licensee.

(12) Inspection of items. At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

(13) Label required. Licensees must attach a label to every group of items or a container(s) holding every group of items received from the same individual during the same transaction, 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 can be removed at the conclusion of the holding period and shall not be re-used.

(14) Person in Charge. Every pawnbroker, secondhand article dealer or secondhand jewelry dealer shall have on premises a Person in Charge at all times that the pawnbroker, secondhand article dealer or secondhand jewelry dealer is open to the public.

(15) Prohibited acts. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbroker, secondhand article dealer or secondhand jewelry dealer, nor may any pawnbroker, secondhand article dealer or secondhand jewelry dealer receive any goods from a person under the age of 18 years, except as permitted by 13.15(a).

1. A pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction with a minor if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.
2. No pawnbroker, secondhand article dealer or secondhand jewelry dealer may receive any goods from a person of unsound mind or an intoxicated person.
3. No pawnbroker, secondhand article dealer or secondhand jewelry dealer may receive any goods, unless the seller presents identification as required under this ordinance.
4. No pawnbroker, secondhand article dealer or secondhand jewelry dealer may receive any item of property that possesses an altered or obliterated serial number or identification number or any item of 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 and secondhand article dealers, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without; nor shall any person pawn and secondhand article dealers, 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 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.

(16) License denial, suspension, or revocation. The city may deny, suspend, or revoke any license issued by it under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of this chapter or ss. 134.71, 943.34, 948.62 or 948.63, Wis. Stats., or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.

(17) Business at only one place. 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 chief's designee, may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with this chapter. All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the city 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 premise that extends for more than six (6) months.

(18) Severability. Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid such decision shall not effect the validity of the ordinance as a whole or any part other than the part so declared invalid.

(19) Billable Transaction Fees. The billable transaction fee for pawnbrokers, secondhand article dealers or secondhand jewelry dealers shall be: \$.50 per transaction of less than \$10.00; \$1.00 per transaction of \$10.00 to \$100.00 and \$1.00 plus 1% of the total transaction fee for transactions over \$100.00.

- (a) Any pawnbroker, secondhand article dealer or secondhand jewelry dealer as defined in this ordinance, and operating within the corporate limits of the City of Greenfield prior to June 1, 2011 shall be exempt from any transaction fees.
- (b) Billable transaction fees shall be collected by the pawnbroker, secondhand article dealer or secondhand jewelry dealer for each transaction and forwarded to the city quarterly. Failure to do so is a violation of this chapter.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force upon publication.

ADOPTED July 27, 2011

APPROVED July 28, 2011

Jennifer Goergen
Jennifer Goergen, City Clerk

Michael J. Neitzke
Michael J. Neitzke, Mayor

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