

**AN ORDINANCE**

**TO AMEND SECTION 9.04 PAWNBROKERS, JUNK DEALERS AND DEALERS IN SECOND HAND GOODS IN CHAPTER 9, LICENSES AND PERMITS OF THE CITY OF WATERTOWN GENERAL ORDINANCES**

Sponsor: Mayor Ronald Krueger  
From: Licensing Committee

THE COMMON COUNCIL OF THE CITY OF WATERTOWN DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9.04 is amended to read as follows:

**9.04 PAWNBROKERS, JUNK DEALERS AND DEALERS IN SECOND HAND GOODS.** (Rep. #71-39; Rep. and Recr. #75-36; Rep. and Recr. #96-48; Re-numbered #97-72)

**(1) DEFINITIONS.** In this section:

(a) "Article" means any of the following articles except jewelry:

1. Audio-visual equipment.
2. Bicycles.
3. China.
4. Computers, laptops, printers, software and computer supplies.
5. Computer toys, gaming systems and games.
6. Crystal.
7. Electronic equipment.
8. Fur coats and other fur clothing.
9. Ammunition and knives.
10. Microwave ovens.
11. Office equipment.
12. Pianos, organs, guitars and other musical instruments.
13. Silverware and flatware.
14. Small electrical appliances.
15. Telephones.
16. Compact Discs, Audiotapes, Videotapes, DVDs, GPS units, and other optical media and optical media recording or replaying devices.
17. Power tools and pneumatic tools.
18. Firearms.
19. Paper currency.
20. Sports equipment.

(b) "Auctioneer" means an individual who is registered as an auctioneer under ch. 480 of the Wis. Stats., and who sells secondhand articles or secondhand jewelry at an auction, as defined in s. 480.01 (1).

(c) "Charitable organization" means a corporation, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) "Customer" means a person with whom 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 or secondhand jewelry.

(e) "Jewelry" means any tangible personal property ordinarily wearable on the person and consisting in whole or in part of any metal, mineral or gem customarily regarded as precious or semiprecious.

(f) "Municipality" means the City of Watertown.

(g) "Pawnbroker" means any person who engages in the business of lending money on the deposit or pledge of any article or jewelry, or purchasing any article or jewelry with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

(h) "Secondhand" means owned by any person, except a wholesaler, retailer or secondhand article dealer or secondhand jewelry dealer licensed under this section, immediately before the transaction at hand.

(i) "Secondhand article dealer" means any person, other than an auctioneer, who engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.

2. Any transaction entered into by a person while engaged in a business for which the person is licensed under sub. (2) or (4) or while engaged in the business of junk collector, junk dealer or scrap processor as described in s. 70.995 (2) (x) of the Wisconsin Statutes.

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 a new article and the person who sold the article when new which involves any of the following:

a. The return of the article.

b. The exchange of the article for a different, new 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 which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

(j) "Secondhand jewelry dealer" means any person, other than an auctioneer, who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand jewelry, except for the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.

2. Any transaction with a licensed secondhand jewelry dealer.

3. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.

4. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new

which involves any of the following:

- a. The return of the jewelry.
- b. The exchange of the jewelry for different, new jewelry.

5. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

**(2) LICENSE FOR PAWNBROKER.** No person may operate as a pawnbroker within the municipality unless the person first obtains a pawnbroker's license under this section. A license issued to a pawnbroker by the City Clerk authorizes the licensee to operate as a pawnbroker within the municipality.

**(3) LICENSE FOR SECONDHAND ARTICLE DEALER.** No person may operate as a secondhand article dealer within the municipality unless the person first obtains a secondhand article dealer's license under this section. A license issued to a secondhand article dealer by the City Clerk authorizes the licensee to operate as a secondhand article dealer within the municipality.

**(4) LICENSE FOR SECONDHAND JEWELRY DEALER.** No person may operate as a secondhand jewelry dealer within the municipality unless the person first obtains a secondhand jewelry dealer's license under this section. A license issued to a secondhand jewelry dealer by the City Clerk authorizes the licensee to operate as a secondhand jewelry dealer within the municipality.

**(5) LICENSE APPLICATION.** A person wishing to operate as a pawnbroker, secondhand article dealer or a secondhand jewelry dealer within the municipality shall apply for a license to the City Clerk. The Clerk shall furnish application forms that shall require all of the following:

- (a) The applicant's name, place and date of birth, telephone number and residence address.
- (b) The names and addresses of the business and of the owner of the business premises.

(c) A statement as to whether the applicant has been arrested for or convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or 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.

(d) 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 names and addresses of all officers and directors.

2. If the applicant is a partnership, the names and addresses of all partners.

3. If the applicant is a limited liability company, the names and addresses of all members.

(e) The name of the manager or proprietor of the business.

(f) Any other information that the Clerk may reasonably require.

**(6) INVESTIGATION OF LICENSE APPLICANT.** The Chief of Police of the municipality shall

investigate each applicant for a pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's license to determine whether the applicant has been arrested for or convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or ordinance violation described under sub. (5) (c) and, if so, the nature and date of the offense and the penalty assessed. The Chief of Police shall furnish the information derived from that investigation in writing to the City Clerk of the municipality.

## **(7) LICENSE ISSUANCE.**

(a) The Common Council, after reviewing the recommendation of the Licensing Board shall grant the license if all of the following apply:

1. 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 arrested for or convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or 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.

2. With respect to an applicant for a pawnbroker's license, the applicant provides to the governing body a surety bond of \$500, for the observation of all municipal ordinances relating to pawnbrokers.

(b) No license issued under this subsection may be transferred.

(c) Each license issued under this section for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid from July 1 until the following June 30.

## **(8) PAWNBROKER AND DEALER REQUIREMENTS.**

(a) Identification. No pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to present one of the following types of identification:

1. A state identification card.
2. A valid Wisconsin motor vehicle operator's license.
3. A valid motor vehicle operator's license, containing a picture, issued by another state.
4. A military identification card.
5. A valid passport.
6. A senior citizen's identification card containing a photograph.
7. Any identification document issued by a state or federal government, whether or not containing a picture, if the pawnbroker, secondhand article dealer or secondhand jewelry dealer obtains a clear imprint of the customer's right index finger.

(b) Transactions with persons under eighteen years of age:

1. Except as provided in sub. 2., no pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from any person under eighteen years of age.

2. A pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction described under sub. 1. if the minor is accompanied by his or her parent or legal guardian at

the time of the transaction.

(c) Records to be maintained.

1. Except as provided in sub. 2., for each transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to complete and sign, in ink, the appropriate form provided by the City Clerk. No entry on such a form may be erased, mutilated or changed. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall retain an original of each form for not less than one year after the date of the transaction except as provided in sub. (e), and during that period shall make the duplicate available to any law enforcement officer for inspection at any reasonable time upon the request of the law enforcement officer.

2. For every secondhand article purchased, received or exchanged by a secondhand article dealer from a customer off the secondhand article dealer's premises or consigned to the secondhand article dealer for sale on the secondhand article dealer's premises, the secondhand article dealer shall keep a written inventory on the appropriate form provided by the City Clerk. In this inventory the secondhand article dealer shall record the name and address of each customer, telephone number, the date, time and place of the transaction and a detailed description of the article which is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The secondhand article dealer shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article for not less than one year after the date of the transaction except as provided in par. (e), and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time upon request of the law enforcement officer.

3. For each transaction described in paragraphs 1 and 2 above, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to provide a clear imprint of the customer's right index finger, which record shall be retained and provided to the Watertown Police Department upon request.

4. For each transaction described in paragraphs 1 and 2 above in which the retail price of the second hand article exceeds \$50.00, a pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall take and retain a clear, unobstructed digital photograph of the article, which photograph shall be retained and provided to the Watertown Police Department upon request. This requirement shall not apply to any articles that have a clear, unaltered serial number or identification number.

(d) Electronic Recording.

1. All secondhand dealers, secondhand jewelry dealers or pawnbrokers shall electronically report each article purchased or received after June \_\_\_\_, 2010 using a computer program approved by the City of Watertown Police Department. Such report shall occur no more than 24 hours after the article is purchased or received and shall contain a complete description as required in Subsection (8)(c)1 and 2.

2. If a secondhand article dealer, secondhand jewelry dealer, or pawnbroker is unable to successfully transfer the required reports by computer, the secondhand article dealer, secondhand jewelry dealer, or pawnbroker must provide the Watertown Police Department with printed copies of all reportable transactions by 12:00 noon the next business day.

3. If a computer problem is determined to be in the computer system of the secondhand article dealer, secondhand jewelry dealer, or pawnbroker, and is not corrected by the close of the first business day following the failure, the secondhand article dealer, secondhand jewelry dealer, or pawnbroker must provide the required reports manually as set forth in the previous paragraph, or be

charged a daily reporting failure fee of \$10.00 per day until the error is corrected, or, if the problem is determined to be outside the secondhand article dealer, secondhand jewelry dealer, or pawnbroker's computer system, the secondhand article dealer, secondhand jewelry dealer, or pawnbroker must provide the required reports manually and then resubmit all such transactions via computer when the error is corrected.

4. Regardless of the cause or origin of the technical problem(s) that prevented the secondhand article dealer, secondhand jewelry dealer, or pawnbroker from uploading the reportable transactions, upon correction of the problem, the secondhand article dealer, secondhand jewelry dealer, or pawnbroker shall upload every reportable transaction from every business day the problem has existed.

(e) Holding period.

1. Except as provided in sub. 5., any secondhand article or secondhand jewelry purchased or received by a pawnbroker shall be kept on the pawnbroker's premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article or secondhand jewelry recovers it.

2. Except as provided in sub. 5., any secondhand article purchased or received by a secondhand article dealer shall be kept on the secondhand article dealer's premises or other place for safekeeping for not less than 10 days after the date of purchase or receipt.

3. Except as provided in sub. 5., any secondhand jewelry purchased or received by a secondhand jewelry dealer shall be kept on the secondhand jewelry dealer's premises or other place for safekeeping for not less than 15 days after the date of purchase or receipt.

4. During the period set forth in sub. 1., 2. or 3. the secondhand article or secondhand jewelry shall be held separate and apart 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 secondhand article or secondhand jewelry during this period. Within 24 hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any secondhand article or secondhand jewelry which is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time which the law enforcement officer considers necessary to identify it.

5. Subdivisions 1. to 4. do not apply to any of the following:

a. A coin of the United States, any gold or silver coin or gold or silver bullion.

b. A secondhand article or secondhand jewelry consigned to a pawnbroker, secondhand article dealer

(e) Report to law enforcement agency. Within seven (7) days after purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall forward by first-class mail, postage prepaid, or by personal delivery to the Chief of Police of the City of Watertown, a duplicate of the original form completed under sub. (c) 1. or the inventory under sub. (c) 2., whichever is appropriate. Notwithstanding Section. 19.35 (1) of the Wisconsin Statutes, a law enforcement agency receiving the original form or inventory or a declaration of ownership may disclose it only to another law enforcement agency.

(f) Exception for customer return or exchange. Nothing in this subsection applies to the return or exchange, from a customer to a secondhand article dealer or secondhand jewelry dealer, of any secondhand article or secondhand jewelry purchased from the secondhand article dealer or secondhand jewelry dealer.

**(9) LICENSE REVOCATION.** The Licensing Committee of the Common Council may revoke any license issued by the Common Council under this section for fraud, misrepresentation or false statement contained in the application for a license or for any violation of this section or Sections 943.34, 948.62 or 948.63 of the Wisconsin Statutes.

**(10) FEES.** The license fees under this section are:

- (a) For a pawnbroker's license -- \$210.00.
- (b) For a secondhand article dealer's license -- \$30.00.
- (c) For a secondhand jewelry dealer's license -- \$30.00.

**(11) PENALTY.**

(a) Upon conviction for a first offense under this section, a person shall forfeit not less than \$50.00 nor more than \$1,000.00, together with the costs of prosecution.

(b) Upon conviction for a 2nd or subsequent offense under this section, a person shall forfeit not less than \$500.00 nor more than \$2,000.00, together with the costs of prosecution.

SECTION 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3. This ordinance shall take effect and be in force the day after its passage and publication.

Adopted: June 1, 2010  
(signed) Michael Hoppenrath, City Clerk/Treasurer  
Approved: June 2, 2010  
(signed) Ron Krueger, Mayor  
Ordinance #10-14