



City of West Allis

Legislation Text

File #: O-2009-0020, **Version:** 1

An Ordinance to Repeal and Recreate Section 9.15 of the West Allis Revised Municipal Code Relating to Pawn Shops, Secondhand Stores, Secondhand Jewelry Dealers.

The Common Council of the City of West Allis do ordain as follows:

PART I. Section 9.15 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

9.15 PAWN SHOPS, SECONDHAND STORES, SECONDHAND JEWELRY DEALERS.

(1) State Regulations.

Except as otherwise provided herein, the provisions of Wisconsin Statute 134.71, relating to the regulations for pawnbrokers and secondhand article and secondhand jewelry dealers, are adopted by reference.

(2) License Required.

(a) No persons shall operate any pawn shop, secondhand or junk store, or deal in precious metals or gems or jewelry in the City of West Allis without first having obtained a license from the City of West Allis therefore.

(b) Exceptions. The requirements of this section do not apply to the following:

1. Transactions involving occasional garage or yard sales, estate sales, coin, gem, antique or stamp shows, conventions or auctions.

2. Transactions involving the purchase of grindings, filings, slag, sweeps, scraps or dust from an industrial manufacturer, dental laboratory, dentist or agent thereof.

3. Transactions involving the purchase of photographic film, including lithographic and x-ray film for reprocessing.

4. Transactions between dealers licensed under this section.

5. Any transaction between a buyer of a new article and the person who sold the article when new which involves a return of the article or jewelry or an exchange of the article for a different, new article or jewelry.

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

7. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.

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

(3) Definitions.

(a) "Adequate Identification" means one of the following types of identification:

1. A county identification card;
 2. A state identification card;
 3. A valid Wisconsin motor vehicle operator's license;
 4. A valid motor vehicle operator's license, containing a picture, issued by another state;
 5. A military identification card;
 6. A valid passport;
 7. An alien registration card;
 8. A senior citizen identification card containing a photograph.
9. Any identification document issued by a state or federal government, if the pawnbroker, secondhand jewelry dealer, or secondhand article dealer obtains a clear imprint of the customer's right index finger.

(b) "Article" means any of the following objects:

1. audiovisual equipment
2. bicycles
3. china
4. computers, printers, software, and computer supplies
5. computer toys and games
6. crystal
7. electronic equipment
8. firearms, knives, and ammunition
9. fur coats and other fur clothing
10. furniture
11. jewelry
12. lawn decorations
13. lawn equipment
14. leather coats or other leather clothing
15. microwave ovens
16. motors
17. office equipment
18. paper money
19. pianos, organs, guitars, and other musical instruments
20. silverware and flatware
21. small electrical appliances
22. snow removal equipment
23. sports equipment
24. telephones

- 25. tools
- 26. video tapes or discs, audio tapes or discs, and other optical media

(c) "Pawnbroker" is defined as any person who engages in the business of lending money on the deposit or pledge of any article or jewelry other than choses in action, securities or written evidences or indebtedness; or purchases any article or jewelry with an expressed or implied agreement of understanding to sell it back at a subsequent time at a stipulated price.

(d) "Secondhand Article or Junk Dealer" is defined as any person, other than an auctioneer, who primarily engages in the business of purchasing or selling secondhand articles as defined above, who is not either a "pawnbroker" or a "secondhand jewelry dealer," as defined above.

(e) "Secondhand Jewelry Dealer" is defined as any person, other than an auctioneer, who engages in any business of any transaction consisting of purchasing, selling, receiving, or exchanging secondhand jewelry, who is not a pawnbroker within the above definition.

(4) Licenses. All licenses issued under this section shall expire effective June 30 of the calendar year following issuance.

(a) Fees.

- 1. The license fee for a pawnbroker's license shall be two hundred ten dollars (\$210) per year.
- 2. The license fee for a secondhand jewelry dealer shall be one hundred fifty dollars (\$150) per year.
- 3. The license fee for a secondhand article dealer shall be seventy-five dollars (\$75) per year.

(5) License Issuance and Granting.

(a) Application for licenses shall be submitted to the City Clerk who shall refer each application to the Common Council. Required license fees shall accompany any application received by the Clerk.

(b) It is hereby deemed to be in the public interest to discourage trafficking in stolen property and to assist the police authorities in the recovery of stolen goods and the apprehension of thieves. Therefore, the Common Council may grant the license if 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 convicted of a felony, 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 article dealer, or secondhand jewelry dealer.
- 2. With respect to an applicant for a pawnbroker's license, the applicant provides to the City Clerk a bond of five hundred dollars (\$500) with not less than two (2) sureties, for the observation of all municipal ordinances relating to pawnbrokers.
- 3. Compliance with all other applicable codes and regulations.

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

(d) Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within (10) ten days after the occurrence thereof.

(6) Investigation of License Applicant.

(a) The Chief of Police or his or her designee 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 convicted of a felony, 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. The results of the investigation shall be furnished to the City Clerk in writing.

(7) Records to be Maintained.

(a) Identification of Seller. 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 securing adequate identification from the customer at the time of the transaction.

(b) Dealer to Maintain, Register, and Obtain Declaration of Seller's Ownership.

1. For each purchase, receipt, or exchange of any secondhand article or secondhand jewelry from a customer, every pawnbroker, secondhand article dealer, and secondhand jewelry dealer licensed under this section shall require the customer to complete and sign, in ink, a property transaction form, in compliance with Wis. Stat. § 134.71(12). 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 and a duplicate of each form for not less than one year after the date of the transaction.

2. For each purchase, receipt, or exchange of any secondhand article or secondhand jewelry from a customer, every pawnbroker, secondhand article dealer, and secondhand jewelry dealer licensed under this section shall keep a permanent record and inventory in such form as the Chief of Police shall prescribe, in which the dealers shall record legibly in English the name, address and date of birth of each customer and driver's license number or number of other adequate identification presented. The dealer shall also record the date, time, and place of the transaction and an accurate and detailed account and description of each article being purchased, including, but not limited to, any trademark, identification number, serial number, model number, brand name, description by weight and design of such article, and other identifying marks, identifying descriptions of the personal nature, and when applicable, whether the article is a male or female item. The book shall be kept in ink, and no entry in such book shall be erased, mutilated, or changed. The pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall retain an original and a duplicate of each record and inventory for not less than one year after the date of transaction.

3. Every pawnbroker, secondhand article dealer, and secondhand jewelry dealer shall on a weekly basis prepare a list that contains the name and address of each customer during the week for which the list was prepared, the date, time, and place of each transaction with each of those customers, and a detailed description of the secondhand article or secondhand jewelry, including the serial number and model number, if any. The dealer or pawnbroker shall retain the list for not less than one year after the date on which the list was prepared.

4. The dealer or pawnbroker shall also obtain a written declaration of the seller's ownership which shall state whether the article or jewelry is totally owned by the seller, how long the seller has owned the article or jewelry, whether the seller or someone else found the article or jewelry and, if the article or jewelry was found, the details of its finding. The dealer or pawnbroker shall retain an original and duplicate of the declaration for not less than one year after the date of the transaction.

5. The seller shall sign, in ink, his or her name in such inventory register and on the declaration of ownership.

6. Such inventory registers, declarations of ownership, and weekly lists shall be made available to any police officer for inspection at any time that the dealer's principal place of business is open or within one business day of an officer's request.

(c) Holding.

1. Holding times.

a. 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. Any secondhand article or jewelry purchased by a secondhand article dealer or secondhand jewelry dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 21 days after the date of purchase or receipt. Any article or jewelry shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the article or jewelry during the holding period within one business day of an officer's request.

b. Any coin or bullion purchased by a pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 48 hours after the date of purchase or receipt. Any coin or bullion shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the coin or bullion during the holding period.

2. The Chief of Police, or any police officer designated by the Chief, may, in his or her discretion, cause any object which has been exchanged or purchased by a dealer licensed under this section, which he or she has reason to believe was not sold or exchanged by the lawful owner, to be held for the purposes of identification or investigation for such additional reasonable length of time as the Chief of Police or designee deems necessary.

(8) Firearms and Jewelry Records to be Maintained.

(a) Report of receipt. Every pawn broker, secondhand jewelry dealer, or secondhand article dealer in the City of West Allis who obtains by pawn, purchase or exchange any secondhand firearm, whether smooth bore, shotgun, rifle or handgun, shall, within one business day after receiving such firearm, report to the Chief of Police of the City of West Allis the fact that the same has been received, with the name, address, date of birth, and description of the person from whom such firearm was received, together with a description of such firearm.

(b) Every pawnbroker, secondhand article dealer, or secondhand jewelry dealer in the City of West Allis who obtains in pawn, purchase or exchange any secondhand article made in whole or in part of platinum, gold, silver, copper, brass, bronze or other precious metal, or precious or semi-precious stones or pearls, shall, within one business day after receiving such article, report to the Chief of Police of the City of West Allis the fact that same has been received, with the name, address, date of birth, and description of the person from whom such jewelry was received, together with the description of such article.

(9) Transactions with Minors.

(a) 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 an unemancipated minor unless the minor is accompanied by his or her parent or guardian at the time of the transaction or the minor provides written consent from his or her parent or guardian to engage in the transaction.

(10) License Revocation.

(a) The Common Council may, upon sufficient cause, suspend, revoke, or not renew a license issued under this section. Cause for suspending, revoking or not renewing such license shall include, but not be limited to, the following:

1. Violations of this section; violations of secs. 134.71, 943.10 (Burglary), 943.11 (Entry into Locked Vehicle), 943.12 (Possession of Burglarious Tools), 943.20 (Theft), 943.201 (Unauthorized Use of an Individual's Personal Identifying Information or Documents), 943.203 (Unauthorized Use of an Entity's Identifying Information or Documents), 943.34 (Receiving Stolen Property), 943.37 (Alteration of Property Identification Marks), 943.38 (Forgery), 943.39 (Fraudulent Writings), 943.392 (Fraudulent Data Alteration), 943.40 (Fraudulent Destruction of Certain Writings), 948.62 (Receiving Stolen Property from a Child), 948.63 (Receiving Property from Children) of the Wisconsin Statutes, or local ordinances in conformity with such provisions.

2. Any fraud, misrepresentation, or false statement contained in the application for a license.

(11) Penalties.

(a) Any person, firm or corporation violating this section shall, upon conviction for a first offense, forfeit not less than fifty dollars (\$50) nor more than one-thousand dollars (\$1,000), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(4), Wis. Stat.

(b) Any person, firm or corporation violating this section shall, upon conviction for the second or subsequent offenses, forfeit not less than five hundred dollars (\$500), nor more than two thousand dollars (\$2,000), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(4), Wis. Stat.

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

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

L:Ordinances/ATTO-Repeal&RecreateSec9.15SecondhandUpdate