

ORDINANCE NO. _____

AN ORDINANCE create Sec. 2-3(17) and to repeal and recreate Article XVII of Chapter 10 of the Code of Ordinances of the City of La Crosse regulating Pawnbrokers, Secondhand Article Dealers, Secondhand Jewelry, Precious Metal and Gems Dealers and Secondhand Article Dealer Mall/Flea Market.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Sec. 2-3(17) is hereby created to read as follows:

Sec. 2-3. – Bond.

- (17) An applicant for a Pawnbroker, Secondhand Article Dealer, Secondhand Jewelry, Precious Metal and Gems Dealer or Secondhand Article Dealer Mall/Flea Market license must provide to the City Clerk a bond in the amount of \$2,500.00, with not less than two (2) sureties, conditioned upon faithful performance and the observance of the ordinances of the City and such state laws relating to pawnbrokers and secondhand dealers and administrative regulations as are applicable. The bond must be in full force and effect at all times during the term of the license.

SECTION II: Article XVII of Chapter 10 is hereby repealed and recreated to read as follows:

DIVISION 1. - GENERALLY

Sec. 10-825. – Authority.

This ordinance is adopted by the Common Council under the authority granted by Section 134.71 of the Wisconsin Statutes.

Sec. 10-826. - Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Article means any item of value excluding the following:

- (1) motor vehicles
- (2) large household and laundry appliances; such as refrigerators, stoves, washers and dryers
- (3) cookware, glassware and utensils that do not contain precious metals
- (4) furniture and household furnishings; such as beds, table and chairs, dressers, desks and bookcases
- (5) postage stamps, trading cards and books

Auctioneer means an individual who is registered as an auctioneer under Ch. 480, Wis. Stats., and who sells secondhand articles or secondhand jewelry, precious metals or gems at an auction, as defined in Sec. 480.01(1), Wis. Stats.

Billable transaction means every reportable transaction except renewals, redemptions, voids or extensions of existing pawns or purchases previously reported and continuously in the dealer's possession.

Charitable organization means an incorporated or non-incorporated tax exempt body established for a charitable purpose.

Charitable purpose means a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare, advocacy, public health, environmental conservation, civic or other eleemosynary objective.

Consignment is placing any article in the hand of another, but retaining ownership and not being compensated until the goods are sold to a customer.

Customer means a person with whom a pawnbroker, secondhand dealer or secondhand jewelry, precious metal and gems dealer, or an agent thereof, engages in a transaction of purchase, sale, receipt or exchange of any secondhand article/jewelry, precious metal or gem.

Dealer means pawnbroker, secondhand article dealer or secondhand jewelry, precious metal and gems dealer.

Jewelry means any tangible article of personal property ordinarily wearable on the person consisting in whole or in part of any precious metal or gem.

Occasional sale means not more than four (4) sales during any twelve (12) month period and duration of which shall not exceed four (4) consecutive days.

Pawnbroker means any person who engages in the business of lending money on the deposit or pledge of any article, jewelry or any item of tangible personal property as security for the loan on the condition that if the loan is not repaid within a specified period of time the goods used as security may be sold to compensate for nonpayment.

Person means a natural person, firm, partnership, corporation, limited liability company (LLC), association, company or any group of individuals acting together for a common purpose.

Precious Metal and Gems means sterling silverware, gold or silver coins or bullion gold, platinum, aluminum, lead, brass, copper, pewter, alexandrite, diamonds, emeralds, garnets, opals, rubies, pearls, jade and such other metals, minerals or gems customarily regarded as precious or semiprecious.

Principal place of business means the primary location where business is performed and generally where the business books and records are kept and/or where management is located.

Reportable transaction means every transaction conducted by a dealer in which an article or jewelry, precious metal or gem is received through a pawn, purchase or trade, or in which a pawn is renewed, extended, voided or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

- (1) The bulk purchase of new or used articles from a merchant, manufacturer or wholesaler, having an established permanent place of business, and the retail sale of said articles, provided the dealer maintains a record of such purchase that described each item, and must mark each item in a manner that related it to the transaction record.
- (2) Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Secondhand means owned by a person, except a wholesaler, retailer, secondhand article dealer or secondhand jewelry, precious metal and gems dealer; immediately before the transaction.

Secondhand Article Dealer means any person, other than an auctioneer or licensed firearms dealer, who engages in the business of purchasing, selling or receiving secondhand articles except when engaging in any of the following:

- (a) Any transaction at an occasional garage or yard sale, an estate sale or auction, a gun, knife, gem or antique show or a convention.

- (b) Any transaction entered into by a person while engaged in a business as a pawnbroker or precious metal and gems dealer for which the person is licensed under this Article.
- (c) Any transaction entered into by a person engaged in the business of Junk Dealer and licensed pursuant to Article XI or Recycler and licensed pursuant to Article XII of the La Crosse Municipal Code.
- (d) Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization; provided that there is submitted to the City Clerk proof that such charitable organization is registered with the State of Wisconsin to solicit or have contributions solicited on its behalf.
- (e) Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:
 - (1) The return of the article.
 - (2) The exchange of the article for a different, new article.
- (f) Any transaction as a purchaser of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
- (g) 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.
- (h) Any retailer or merchant who receives and resells trade-in merchandise if sales of used property constitutes less than one (1%) of gross sales.
- (i) Any consignment retailer.
- (j) A licensed firearms dealer.

Secondhand Article Dealer Mall/Flea Market means the owner of any premise or land upon which two (2) or more persons operate as secondhand article dealers who may obtain a secondhand article dealer mall/ flea market license for the premises or land if the following conditions are met:

- (a) Each secondhand article dealer occupies a separate sales location and identifies himself or herself to the public as a separate secondhand article dealer.
- (b) The secondhand article dealer mall/flea market is operated under one name and at one address, and is under the control of the secondhand article dealer mall/flea market license holder.
- (c) Each secondhand article dealer delivers to the secondhand article dealer mall/flea market license holder, at the close of business on each day that the secondhand article dealer conducts business, a record of sales that includes the location at which each sale was made.
- (d) The secondhand article dealer mall/flea market license holder and each secondhand article dealer operating upon the premises or land shall comply with all other provisions of this Article and all applicable zoning provisions.

Secondhand Jewelry, Precious Metal and Gems Dealer means any person, other than an auctioneer, who engages in any transaction of purchasing, selling or receiving secondhand jewelry, precious metals or gems, except when engaging in any of the following:

- (a) Any transaction at an occasional garage or yard sale, an estate sale or auction, a gun, knife, gem or antique show or a convention.

- (b) Any transaction with a licensed secondhand jewelry, precious metal and gems dealer.
- (c) Any transaction entered into by a person engaged in the business of Junk Dealer and licensed pursuant to Article XI or Recycler and licensed pursuant to Article XII of the La Crosse Municipal Code.
- (d) Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization; provided that there is submitted to the City Clerk proof that such charitable organization is registered with the State of Wisconsin to solicit or have contributions solicited on its behalf.
- (e) Any transaction between a buyer of new jewelry and the person who sold the jewelry when new that involves any of the following:
 - (1) The return of the jewelry.
 - (2) The exchange of the jewelry for different, new jewelry.
- (f) Any transaction as a purchaser of secondhand jewelry, precious metals or gems from a charitable organization if the secondhand jewelry, precious metals or gems were a gift to the charitable organization.
- (g) Any transaction as a seller of secondhand jewelry, precious metals or gems that the person bought from a charitable organization if the secondhand jewelry, precious metals or gems were a gift to the charitable organization.
- (h) 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 and does not purchase precious metals, gems or valuable articles from the general public.

Sec. 10-827. – Recordkeeping Duties; Information 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 in a computerized record approved by the La Crosse Police Department:

- (1) 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 or such an item.
 - a. No dealer may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.
- (2) 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.
- (3) Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.

- (4) The identification number and state of issue from any of the following forms of identification of the seller:
 - a. A current and valid Wisconsin driver license or identification card.
 - b. A current and valid military identification card.
 - c. A current and valid passport.
 - d. A current and valid photo identification card issued by another state or government entity.
- (5) The signature of the person on a declaration of ownership of the secondhand item identified in the transaction and shall state that he or she owns the secondhand item.

Sec. 10-828. - Daily Reports to Police.

- (a) Dealers must maintain an electronic inventory tracking system which is capable of transmission and delivery of all required information in Sec. 10-827 via computer to an entity designated by the City of La Crosse Police Department.
- (b) Dealers must submit every reportable transaction to the Police Department each day or not later than the business day following the purchase.
 - (1) Dealers must provide to the Police Department all required information pursuant to Sec. 10-827 by transferring it from their computer to an entity designated by the City Police Department.
 - (2) If a dealer is unable to successfully transfer the required reports electronically, the dealer must provide the Police Department with printed copies of all reportable transactions by 12:00 noon the next business day.
 - (3) If the problem is determined to be in the dealer's system and is not corrected by the close of the first business day following the failure, the dealer must continue to provide printed copies and shall be charged a daily reporting fee of ten dollars (\$10.00) until the error is corrected.
 - (4) Regardless of the cause or origin of the technical problems that prevented the dealer from uploading the reportable transactions, upon correction of the problem, the dealer shall upload every reportable transaction from every business day the problem existed and resubmit all reportable transactions.
 - (5) The provisions of this section notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.
 - (6) Subsection (b) does not apply to any of the following:
 - a. Sports equipment and memorabilia for which the dealer paid twenty-five dollars (\$25) or less per item.
 - b. Clothing (other than furs), shoes, handbags and wardrobe accessories for which the dealer paid twenty-five dollars (\$25) or less per item.
 - c. A secondhand article consigned to a dealer.

Sec. 10-829. - Holding Period; Inspection by Law Enforcement

- (a) Except as provided in subsection (i) below, any secondhand article or secondhand jewelry, precious metal or gem purchased or received by a dealer shall be kept on the premises or other place for safekeeping for not less than twenty-one (21) 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, precious metal or gem redeems it.
- (b) During the holding periods set forth in subsection (a), the secondhand article or secondhand jewelry, precious metal or gem shall be held separate and apart and may not be altered in any manner. The

dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry, precious metal or gems during this period.

- (c) Within twenty-four (24) hours after a written request of a law enforcement officer during this period, a dealer shall make available for inspection any secondhand article or secondhand jewelry, precious metal or gem that is kept off the premises for safekeeping.
- (d) Any law enforcement officer who has reason to believe any secondhand article or secondhand jewelry, precious metal or gem was not sold or exchanged by the lawful owner may direct a dealer to hold that secondhand article or secondhand jewelry, precious metal or gem for a reasonable length of time that the law enforcement officer considers necessary to identify it.
- (e) An order to confiscate may be placed on an item if the 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 licensed premise, pursuant to a written order from the chief or the chief's designee, place the item on hold or extend the hold and leave it at the licensed premise.
- (f) 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.
- (g) When an order to hold/confiscate is no longer necessary, the Chief of Police or Chief's designee shall so notify the licensee.
- (h) Section 10-829 does not apply to any of the following:
 - (1) A coin of the United States or any gold or silver coin or gold or silver bullion.
 - (2) Sports equipment and memorabilia for which the dealer paid twenty-five dollars (\$25) or less per item.
 - (3) Clothing (other than furs), shoes, handbags and wardrobe accessories for which the dealer paid twenty-five dollars (\$25) or less per item.
 - (4) A secondhand article consigned to a dealer.

Sec. 10-830. - Digital Photo Requirement; Records Required.

The licensee must take a color, digitized photograph of every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed, excluding only electronic media. One group photo shall suffice for mass items such as several coins acquired in one transaction. If a photograph is taken, it must be at least two inches in length by two inches in width and must be maintained in such 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. Items photographed must be accurately depicted and submitted as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Consignment transactions shall be exempt from this requirement.

Sec. 10-831. - Restricted Purchases.

No person licensed under this Article shall purchase or take any goods, article or thing from any person under eighteen (18) years of age or from any intoxicated person.

Sec. 10-832. - Labels 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 dealer'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. Labels shall not be re-used.

Sec. 10-833. – Business at Only One Place.

A license under this Article authorizes the licensee to carry on its business only at the permanent place of business designated on 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 Article. All provisions of this Article regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the Municipal 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.

Sec. 10-834 – Payment. All payments made by a pawnbroker who lends money on the deposit or pledge of any article or jewelry or made by a secondhand dealer for the purchase of any article or jewelry shall be made by check or automated clearing house.

Sec. 10-835. – Display of License.

Each license issued under this Article shall be displayed in a conspicuous place visible to anyone entering a licensed premise.

Sec. 10-836. - License.

(a) Required.

- (1) No person shall operate as a pawnbroker, secondhand article dealer, secondhand jewelry, precious metal or gems dealer or secondhand article dealer mall/flea market within the City unless duly licensed to do so by the Common Council.
 - a. A person who operates as a secondhand article dealer on premises or land owned by a person with a secondhand dealer mall/flea market license does not need to obtain a secondhand article dealer license.
 - b. Subsection (a)(1) of this section shall not apply to secondhand dealers if the dealer is licensed accordingly in another municipality within the State of Wisconsin, unless subsection (a)(2) of this section applies.
 1. A secondhand dealer so licensed shall disclose the information required by Sec. 10-837 to the City Clerk and be subject to investigation pursuant to Sec. 10-840 prior to conducting business in the City of La Crosse.
 2. This subsection is not intended to exempt such person from otherwise complying with the provisions of Sec. 2-3(17) or Article XVII relating to secondhand dealers including but not limited to all electronic reporting or other recordkeeping requirements, labeling and receipt requirements and holding periods.
- (2) No person shall operate as a secondhand article dealer or secondhand jewelry, precious metal and gems dealer and have a principal place of business within the City unless duly licensed to do so by the Common Council.
- (3) No license issued under this Article may be transferred.

- (4) A separate license shall be obtained for each individual premise in the City from which the business is operated.

Sec. 10-837. – Application.

Persons required to be licensed under this Article shall make application for said license with the City Clerk's Office on the appropriate form provided by the City Clerk. Such application shall state:

- (1) The name, residence address and telephone of the person making application, including an individual, a partner, any member of a limited liability company or any officer, director or agent of any corporate applicant.
- (2) The name, residence address and telephone number of the person designated as manager or person in charge of said business.
- (3) Statement as to whether applicant or any individual, partner, member, officer, director, manager or person in charge has been convicted within the preceding ten (10) years of a felony, misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation.
- (4) The trade name of business.
- (5) The premise address where such business is to be located.

An applicant licensed under this Article has a duty to update the City Clerk's Office of any change in information required to be disclosed under this Section within ten (10) days of said change.

All applications for a license under this Article shall be filed no less than fifteen (15) days prior to the meeting of the proper Council meeting and shall only be acted upon after the investigation as provided in Sec. 10-840.

Sec. 10-838. – Fees.

- (1) License fee. Every person required to be licensed by Sec. 10-836 shall pay an annual license fee in the amount established by resolution.
- (2) Billable transaction fee. All licensed pawnbrokers, secondhand article dealer and secondhand jewelry, precious metal and gems dealers will be required to pay a billable transaction fee for each transaction reported to the Police Department. The billable transaction fee shall be as established by resolution.

Sec. 10-839. – License period.

Each license for a pawnbroker, secondhand article dealer, secondhand jewelry, precious metal and gems dealer or secondhand article dealer mall/flea market is valid for one (1) year from July 1 until the following June 30.

A secondhand dealer exempt from obtaining a license pursuant to Sec. 10-836(a)(1)(b) shall be allowed to operate within the City of La Crosse for a period not to exceed the license period of the issuing municipality.

Sec. 10-840. – Investigation, granting and issuing license; renewal.

- (a) Upon the filing of such application with the City Clerk, the La Crosse Police Department shall conduct an investigation of the statements made on such application and into the background of the applicant, including an individual, a partner, a member of a limited liability company or an officer, director or agent of any corporate applicant. The department shall make a determination whether the applicant or any individual, partner, member, officer, director or agent has been convicted within the preceding ten (10) years of a felony or 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 for which the license is requested. Said determination shall

be filed with the City Clerk and made available to the Common Council which shall either grant or deny such license, whichever shall in its judgment appear in the interests of the public.

- (b) If the Common Council approves the granting of the license, the applicant shall, upon complying with all of the provisions of this Article, be entitled to and shall receive from the City Clerk a written license authorizing such person to carry on the business of pawnbroker, secondhand article dealer, secondhand jewelry, precious metal and gems dealer or secondhand article dealer mall/flea market.
- (c) The license holder shall, on an annual basis, file a renewal application prior to the expiration of the license, in the same manner as the initial application.

Sec. 10-841. - Denial, suspension or revocation of license.

A license may be denied, revoked or suspended for reasons which are deemed to be in the best interest of the City or for fraud, misrepresentation or false statements contained in the application for a license. In addition, a license may be suspended or revoked due to the conduct of any licensee, their employee or agent or it is determined that the licensee has violated a State statute or City ordinance.

Sec. 10-842. - Appeal.

A revocation, suspension or denial of a license may be appealed to the Judiciary and Administration Committee which shall grant applicant with an opportunity for a hearing. The Judiciary and Administration Committee shall make findings and a recommendation to the Common Council.

Secs. 10-843—10-868. - Reserved.

SECTION IV: This ordinance shall take effect and be in full force on July 1, 2017.

Timothy Kabat, Mayor

Teri Lehrke, City Clerk

Passed:

Approved:

Published: