

CITY OF STOUGHTON, 381 E. Main Street, Stoughton, WI 53589

ORDINANCE OF THE COMMON COUNCIL

To repeal Section 14-101 and create Sections 14-101 through 14-117 of the Municipal Code of the City of Stoughton, Wisconsin, relating to Pawnbrokers and Secondhand Dealers.

Committee Action:

Fiscal Impact: 0

File Number: O-17-2011

Date Introduced: March 13, 2012(1st reading)
March 20, 2012 (2nd reading)

The City Council of the City of Stoughton, Dane County, Wisconsin, ordains as follows:

1. Section 14-101 of the Municipal Code is repealed.
2. Section 14-101 is recreated, and Sections 14-102 through 14-117 are created as shown on Exhibit A.
3. This ordinance shall take effect upon passage and publication.

The foregoing ordinance was adopted by the Common Council of the City of Stoughton at a meeting held on _____, 2012.

APPROVED:

Donna Olson, Mayor

ATTEST:

Nick Probst, City Clerk

Posted _____

Published _____

ARTICLE IV. - PAWNBROKERS AND SECONDHAND DEALERS

Sec. 14-101. - License required.

Secs. 14-102—14-130. - Reserved.



Sec. 14-101. - License required.

No person shall engage in the business of pawnbroker, secondhand article dealer or secondhand jewelry dealer within the city without first applying for and obtaining a license for such business from the city clerk.

PUBLIC SAFETY COMMITTEE MEETING MINUTES

Wednesday, July 27, 2011

Hall of Fame Room, City Hall

Discussion and possible action regarding revisions to Pawnbroker/secondhand

licenses: Moved by Chenoweth, seconded by Peterson, to table this agenda item to the next Public Safety meeting in order to allow the Police Chief to add amounts and additional information, and to have Attorney Dregne review amendments to prior to the next meeting. Carried unanimously.

EXHIBIT A

ARTICLE IV – PAWNBROKERS AND SECONDHAND DEALERS

Sec. 14-101 - Statutes Adopted.

Except as otherwise specifically provided in this chapter, the statutory provisions of Section 134.71, Wisconsin Statutes, describing and defining regulation of pawn brokers and secondhand article and jewelry dealers, including procedures for prosecution, are adopted and by reference made a part of this section as if set forth fully herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutory regulations in Section 134.71, Wisconsin Statutes, as incorporated herein, are intended to be made part of this section and are adopted by reference. Any person who shall within the city, violate any provisions of any statute incorporated herein by reference shall be deemed guilty of an offense under this section. Unless otherwise defined herein, terms have the definitions provided in Section 134.71.

Sec. 14-102 - License.

No person, firm or corporation may operate as a pawnbroker, secondhand article, or secondhand jewelry dealer in the city without first obtaining a license under this chapter from the city clerk.

Sec. 14-103 - Display of License.

Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering the licensed premises.

Sec. 14-104 - License Application.

A person wishing to operate as a pawnbroker, secondhand article 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:

1. The applicant's name, place and date of birth, residence address, all states where the person has previously resided, and residence addresses for the ten-year period prior to the date of the application.
2. The names and addresses of the business and of the owner of the business premises.
3. Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 - a. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
 - b. If the applicant is a partnership, the names and addresses of all partners.
 - c. If the applicant is a limited liability company, the names and addresses of all members.
4. The name of the manager or proprietor of the business.

5. A statement as to whether 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 been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.
6. Whether the applicant or any other person listed in subsection 3., 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.
7. Whether the applicant or any other person listed in subsection 3., above, has previously been denied or had revoked or suspended a pawnbroker, secondhand dealer or secondhand jeweler license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.
8. Any other information that the clerk may reasonably require.

Sec. 14-105 - Investigation of License Applicant.

The police department shall investigate each applicant (including any other person listed in subsection Sec. 14-104.4., above) for a pawnbroker, secondhand article, or secondhand jewelry dealer license. The investigation shall include a determination by the police department whether the applicant has been convicted within the preceding ten years of a felony or within the preceding ten years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation and, if so, the nature and date of the offense and the penalty assessed. The department shall furnish the information derived from that investigation in writing to the City Clerk, and provide a written recommendation of approval or denial of the license to the City Clerk. The police department may recommend denial if the applicant is subject to a pending criminal charge, or has been convicted of an offense, the circumstances of which are substantially related to the licensed activity.

Sec. 14-106 - Issuance.

(a) The Common Council may grant the license, after notice and hearing, 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 convicted within the preceding ten years of a felony or within the preceding ten 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 related to the circumstances of the licensed activity.

(2) The police department recommends approval of the application.

(3) All zoning approvals have been obtained for the property upon which the pawnbroker, secondhand article, or secondhand jewelry dealer operation will be conducted, and,

general conformance with the city's development standards on the subject site is established or maintained.

(4) The appropriate license fee for each individual premises on which the licensed activity will be conducted has been paid.

(5) With respect to an applicant for a pawnbroker's license, the applicant provides to the common council a bond of \$500, with not less than two (2) sureties, for the observation of all city ordinances relating to pawnbrokers.

(6) The applicant has not previously and lawfully been denied or had revoked or suspended a pawnbroker, secondhand article, or secondhand jewelry dealer license.

(b) Any grant of license is conditional upon the applicant having paid all outstanding fees and other obligations owed to the city.

(c) The decision of the common council shall be a final determination and shall be subject to review in court as may be provided by law. Any person aggrieved by the decision may seek review thereof within 30 days after the date of the final determination by said common council.

Sec. 14-107 - Expiration and renewal; late renewal fees.

The licenses governed by this section shall be annual licenses, and shall expire on December 31 after the granting thereof. All new or renewal license applications shall be made on or before November 1 of the license year applied for, or be subject to a late filing fee.

Sec. 14-108 - Nontransferable.

No license issued under this chapter may be transferred.

Sec. 14-110 - Inspection of Items.

At all times during the term of the license, the pawnbroker, secondhand article, or secondhand jewelry dealer shall allow the police department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours (or at other times in the case of an emergency), for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

Sec. 14-111 - Requirements.

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

- a. Current, valid Wisconsin driver's license;
- b. Current, valid Wisconsin identification card;

c. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

2. Transactions with Minors.

a. Except as provided in subsection 2.b., no pawnbroker, secondhand article, or secondhand jewelry dealer may engage in a transaction of purchase, receipt, or exchange of any secondhand article from any minor, defined as a person under the age of eighteen (18) years.

b. A pawnbroker, secondhand article, or secondhand jewelry dealer may engage in a transaction described under subsection 2.a. 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.

3. Records Required.

a. At the time of each transaction of purchase, receipt or exchange (and not including renewals, extensions, or redemptions), every pawnbroker, secondhand article, or secondhand jewelry dealer 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 Stoughton Police Department:

i. 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.

ii. The purchase price, amount of money loaned upon or pledged therefore.

iii. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

iv. Date, time, and place the item of property was received by the pawnbroker, secondhand dealer or secondhand jeweler, and a unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the pawnbroker or secondhand dealer's records.

v. Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, height, weight, race, color of eyes, and color of hair.

vi. The identification number and state of issue from any of the following forms of identification of the seller:

1. Current, valid Wisconsin driver's license;

2. Current, valid Wisconsin identification card;

3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

vii. A clear digital photograph of each article or item of jewelry.

viii. The signature of the person identified in the transaction.

b. Renewals, extensions, and redemptions. At the time of each transaction involving a renewal, extension or redemption, the pawnbroker, secondhand article, or secondhand jewelry dealer shall record, and maintain with the original transaction records, the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extensions, and redemptions.

c. Record retention. The original and a duplicate of all transaction records under subsections 3.a. and 3.b. shall be retained for at least one year from the date of transaction.

d. For every secondhand article purchased, received, or exchanged by a pawnbroker or secondhand article dealer from a customer off the pawnbroker or secondhand article dealer's premises, or consigned to the pawnbroker or secondhand article dealer for sale on their premises, the pawnbroker or secondhand article dealer shall keep a written inventory. In this inventory the pawnbroker or secondhand article dealer shall record the name and address of each customer, the date, time, and place of the transaction, and a detailed description of the article that 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 pawnbroker or 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 subsection 7., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

e. Every secondhand article dealer shall on a weekly basis prepare a list that contains the name and address of each customer of the secondhand article dealer 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, including the secondhand article's serial number and model number, if any. The secondhand article dealer shall retain the list for not less than one year after the date on which the list was prepared. The secondhand article dealer shall make the list available to any law enforcement officer for inspection at any time that the secondhand article dealer's principal place of business is open to the public or at any other reasonable time.

4. Holding Period.

a. Except as provided in subsection 4.c., any secondhand article or secondhand jewelry purchased or received by a pawnbroker, secondhand article, or secondhand jewelry dealer shall be kept on the premises or other place for safekeeping for not less than thirty (30) days after the date of purchase or receipt, unless the person known by

the pawnbroker, secondhand article, or secondhand jewelry dealer to be the lawful owner of the secondhand article or secondhand jewelry redeems it.

b. During the period set forth in subsection 4.a., the secondhand article or secondhand jewelry shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker, secondhand article, or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article during this period. Within twenty-four (24) hours after a request of a law enforcement officer during this period, a pawnbroker, secondhand article, or secondhand jewelry dealer shall make available for inspection any secondhand article which is kept off the premises for safekeeping.

c. Subsections 4.a. and b. do not apply to a secondhand article consigned to a pawnbroker, secondhand article, or secondhand jewelry dealer.

5. Redemption Period. Any person pledging, pawning or depositing any 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 60-day holding period, items may not be removed from the licensed location. Pawnbrokers, secondhand article, or secondhand jewelry dealers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, 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 the approval of the police department. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with subsection 3.b.

6. Police Order to Hold Property.

a. Investigative hold. Whenever a law enforcement officer from any agency notifies a pawnbroker, secondhand article, or secondhand jewelry dealer 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 confiscate is issued, pursuant to subsection b., whichever comes first.

b. Order to confiscate.

i. If an item is identified as stolen or evidence in a criminal case, the police department may physically confiscate and remove it from the shop, pursuant to a written order from the police department.

ii. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker, secondhand article, or secondhand jewelry dealer, and shall provide the pawnbroker, secondhand article, or secondhand jewelry dealer with the name and phone number of the confiscating officer and the case number related to the confiscation.

iii. When an order to confiscate is no longer necessary, the police department shall so notify the pawnbroker, secondhand article, or secondhand jewelry dealer.

7. Reports to Police.

a. This chapter implements and establishes the required use of a reporting system to help the Stoughton Police Department better regulate current and future pawnshops, secondhand article and secondhand jewelry dealers and to increase identification of criminal activities associated with these uses through the timely collection and sharing of transaction information. Pawnbrokers, secondhand article and secondhand jewelry dealers must submit all records collected pursuant to section 14.111.3, above, and any information required pursuant to State Statute, to the Stoughton Police Department, as described below.

b. Within 24 hours after purchasing or receiving a secondhand article or secondhand jewelry,, a pawnbroker, secondhand article or secondhand jewelry dealer must make available, for inspection by a law enforcement officer, the original copy of the form containing information required in subsection 3.a., or the inventory required in subsection 3.d, whichever is appropriate.

c. A pawnbroker, secondhand article or secondhand jewelry dealer must submit, on a weekly basis, a complete copy of both the form containing information required in subsection 3.a. or the inventory required in subsection 3.d, whichever is appropriate, to the Stoughton Police Department. The report shall be submitted in a manner designated by the Stoughton Police Department. If a pawnbroker, secondhand article, or secondhand jewelry dealer is unable to successfully transfer the required report and inventory in electronic format, they must provide the Stoughton Police Department with a printed copy of each.

d. A pawnbroker, secondhand article, or secondhand jewelry dealer must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported to the Stoughton Police Department.

8. Exception for Customer Return or Exchange. Nothing in this section applies to the return or exchange from a customer to a pawnbroker, secondhand article, or secondhand jewelry dealer of any secondhand article or secondhand jewelry purchased from the pawnbroker, secondhand article, or secondhand jewelry dealer.

Sec. 14-112 - Prohibited Acts.

1. No person under the age of eighteen (18) years may pawn or sell or attempt to pawn or sell goods with any pawnbroker, secondhand article, or secondhand jewelry dealer, nor may any pawnbroker, secondhand article, or secondhand jewelry dealer receive any goods from a person under the age of eighteen (18) years, except as permitted by subsection 14.111.2.b.

2. No pawnbroker, secondhand article, or secondhand jewelry dealer may receive any goods from a person of unsound mind or an intoxicated person.

3. No pawnbroker, secondhand article, or secondhand jewelry 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.
4. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any pawnbroker.
5. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker, secondhand article, or secondhand jewelry dealer 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 pawnbroker, secondhand article, or secondhand jewelry dealer.
6. Any person found guilty of violating subsections 4. or 5. above may be required to provide restitution in accordance with Section 800.093, Wisconsin Statutes, in order to cover losses by the pawnbroker, secondhand article, or secondhand jewelry dealer defrauded by the violation of those subsections.

Sec. 14-113 - Procedure for revocation, suspension or nonrenewal.

(a) In addition to any other penalty provided by these ordinances, any secondhand article dealer license, secondhand jewelry dealer license, pawnbroker license may be revoked, suspended or ordered not to be renewed for a stated period of time by the common council, after notice and hearing and recommendation by the public safety committee, for any violation of the following:

- (1) This article or any other ordinance;
- (2) Any state statute where the circumstances of the offense are substantially related to the circumstances of a local ordinance, rule or regulation of being a pawnbroker or secondhand dealer;
- (3) For fraud, misrepresentation or false statement contained in the application for a license;
or
- (4) For any violation of Wis. Stats. § 943.34, 948.62 or 948.63.

(b) The decision of the common council shall be a final determination and shall be subject to review in court as provided by law. Any person aggrieved by the decision of the common council may seek review thereof in circuit court within 30 days after the date of the final determination.

Sec. 14-115 - Penalty.

Any person convicted of a first offense under the provisions of this chapter shall forfeit not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00), plus the costs of prosecution, and in default of such payment, shall be imprisoned in the county jail until such

forfeiture and costs are paid, but not exceeding ninety (90) days. Any person convicted of a second or greater offense under the provisions of this chapter shall forfeit not less than five-hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000.00), plus the costs of prosecution, and in default of such payment, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

Sec. 14-116 - Severability.

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

Sec. 14-117 - Gold, precious metal, and stone dealers.

a. Purpose.

Gold and other precious metals and stones continue substantially to increase in value. The theft thereof is a growing and serious problem. The common council's intent is to deter such illegal activity by making it difficult to dispose of such stolen items. The licensing and regulating of dealers in secondhand gold and other precious metals and stones is in the public interest.

b. Gold and other precious metals and stones license required.

No person shall engage in the business of purchasing secondhand gold, other precious metals, and stones or articles containing the same, without obtaining a license from the city clerk.

All license requirements and penalties of Sections 14-103 through 14-116 above that apply to secondhand article dealers shall equally apply to gold, precious metal, and stone dealers.

The foregoing ordinance was duly adopted by the City Council of the City of Stoughton at a meeting held on March 20, 2012.

CITY OF STOUGHTON

Donna Olson, Mayor

(seal)

Nick Probst, City Clerk

ENACTED: _____

PUBLISHED: _____

