

CHAPTER 18

**Pawnbrokers, Secondhand Article and Secondhand Jewelry Dealers
(Ordinance 2018-01 – 03/05/18)**

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SEC 7-18-1 PAWNBROKERS, SECONDHAND ARTICLE AND JEWELRY DEALERS.

Wis. Stats. § 134.71 is hereby adopted and, by reference, made a part of this Chapter with the same force and effect as though fully set out herein notwithstanding the below subsections. Failure to comply with any of the provisions of this Chapter shall constitute a violation of this Chapter, punishable according to the penalties set forth in Section 7-18-10 of this Chapter.

(a) Purpose.

- (1) The Village finds that a paper-based system of tracking and recording pawnbroker and secondhand dealer sales and purchases is technologically outdated, inefficient and environmentally irresponsible. This Chapter implements and establishes the required use of an electronic reporting system to record transactions by pawnbrokers, secondhand article and jewelry dealers.
- (2) To help the Village’s police department decrease and stabilize costs associated with the regulation of pawnbrokers, secondhand article and jewelry dealers, and better facilitate the identification of criminal activities in this industry through the timely collection and sharing of transactional information, this section also implements and establishes the required use of the North Eastern Wisconsin Property Reporting System (NEWPRS).
- (3) The Village recognizes that pawnbrokers, secondhand article and jewelry dealers engage in legitimate business transactions authorized by state law. However, the

Village finds that these services provide individuals with an opportunity to potentially transfer stolen property. The Village also finds that consumer protection regulation is warranted in transactions of this nature. The purpose of the Village’s regulation of pawnbrokers, secondhand article and jewelry dealers is to prevent their services from being used to facilitate the commission of crimes and to assure compliance with basic consumer protection standards, thereby protecting the public health, safety and general welfare of citizens, pursuant to the authority granted by Wis. Stat. § 134.71.

SEC 7-18-2 DEFINITIONS.

All definitions listed in Wis. Stats. § 134.71, as amended from time-to-time, are hereby adopted by reference and incorporated in this Chapter as though fully set out in this section except for the following definitions:

- (a) “Article” shall mean any item of value except for jewelry.
- (b) “Billable transaction” means every reportable transaction conducted by a pawnbroker and secondhand article and jewelry dealer except renewals, redemptions, voids, confiscations, or extensions of existing pawns or purchases previously reported and continuously in the licensee's possession.
- (c) “Display of license” means each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.
- (d) “Jewelry” shall mean 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.
- (e) “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. A person is not acting as a pawnbroker 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 engaged in the business of junk collector, junk dealer, or scrap processor, as described in Wis. Stats. § 70.995(2) or otherwise under applicable Village ordinance.
 - (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 that involves any of the following:
 - a. The return of the article.
 - b. The exchange of the article for a different, new article.
 - c. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

- d. 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.
- (f) “Reportable transaction” means every transaction conducted by a pawnbroker and secondhand article and jewelry dealer in which an article or jewelry is received through a pawn, purchase, consignment, 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 or consignment 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 pawnbroker or secondhand article or jewelry dealer shall maintain a record of such purchase or consignment that describes each item, and shall mark each item in a manner that relate it to that 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.
- (g) “Secondhand” means owned by any person, except a wholesaler, retailer, or any pawnbroker or secondhand article or jewelry dealer licensed under this section or Wis. Stat. § 134.71 or an ordinance adopted pursuant thereto immediately prior to the transaction at hand.
- (h) “Secondhand article dealer” means any person who engages in the business of purchasing, selling or exchanging 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, a convention or an auction.
 - (2) Any transaction entered into by a person while engaged in a business as a pawnbroker or secondhand jewelry dealer for which the person is licensed under this section, or under Wis. Stat. § 134.71 or under an ordinance adopted pursuant thereto.
 - (3) Any transaction entered into by a person while engaged in the business of junk collector, junk dealer, auctioneer or scrap processor as described in Wis. Stats. § 70.995(2) or applicable Village ordinance.
 - (4) Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
 - (5) 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.
 - c. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
 - d. 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.
 - e. Any transaction between a buyer of a new article and a seller of new articles who accepts an occasional secondhand article in trade.

- f. The sale of secondhand books or magazines.
 - g. Goods sold at the public market, i.e., farmers market, etc.
 - h. Goods sold by a bonafide antique, used furniture, or used clothing dealer, so long as 75 percent of said dealer's business revenue is derived through the sale of antiques, used furniture or used clothes.
- (i) “Secondhand jewelry dealer” means any person 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, a convention or an auction.
 - (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 and does not purchase the precious metals, gems or valuable articles from the general 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 a different, new jewelry.
 - c. Any transaction operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
 - d. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
 - e. Any transaction as a seller of secondhand jewelry that the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

SEC 7-18-3 LICENSE REQUIRED.

- (a) No person may operate as a pawnbroker unless the person first obtains a pawnbroker's license under this Chapter.
- (b) No person may operate as a secondhand article dealer unless the person first obtains a secondhand article dealer's license under this Chapter.
- (c) No person may operate as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry dealer's license under this Chapter.

SEC. 7-18-4 APPLICATION; INVESTIGATION OF APPLICANT.

- (a) **Application.** Application for a license as a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall be made to the Village Clerk. The Village Clerk shall

furnish application forms which shall require that information specified by Wis. Stat. § 134.71(5).

- (b) **Investigation.** Within ten days after receipt of an application for a license under this Chapter, the Village Clerk shall forward a copy of the application to the Chief of Police, who shall cause an investigation of each applicant for such license to be made to determine whether the applicant has been convicted within the preceding ten years of a felony, 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 activity proposed to be licensed and, if so, the nature and date of the offense and the penalty assessed. The Chief of Police shall furnish the information derived from the investigation in writing to the Village Clerk within five days from completion of the investigation.

SEC. 7-18-5 LICENSE ISSUANCE, TRANSFER AND TERM.

- (a) **Issuance.** Following receipt of all appropriate information required in the application for a license under this Chapter, the Village Clerk shall forward the application to the Legislative and Licensing Committee, which shall grant the license if all of the following apply:
- (1) The applicant, including an individual, a partner or an officer, director or agent of any corporate or business applicant, has not been convicted within the preceding ten years of a felony, 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, or secondhand article dealer;
 - (2) The applicant has resided in the State of Wisconsin for a period of at least one year prior to the date of filing an application;
 - (3) With respect to the applicant for a pawnbroker's license, the applicant provides to the Village a bond of \$500.00, with not less than two sureties, for the observation of all Village ordinances relating to pawnbrokers; and
 - (4) The appropriate license fee for each individual premise has been paid.
- (b) **Display of License.** Any license issued under this Chapter shall be displayed in an open and conspicuous place on the licensed premises.
- (c) **No Transfer of License.** No license issued under this Chapter may be transferred.
- (d) **Term.** Each license for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid from January 1 until the following December 31.

SEC. 7-18-6 PAWNBROKER AND SECONDHAND 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) An alien registration card.
- (7) A senior citizen's identification card containing a photograph.
- (8) 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 minors.**

- (1) Except as provided in subsection (b)(2) of this section, 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 minor.
- (2) A pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction described under subsection (b)(1) of this section if the minor is accompanied by his parent or guardian at the time of the transaction or if the minor provides the pawnbroker, secondhand article dealer or secondhand jewelry dealer with the parent's or guardian's written consent to engage in the particular transaction.

(c) **Records.**

- (1) **Receipt.** Except as provided in subsection (c)(2) of this section, 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 Village. No entry on such form may be erased, mutilated or changed. Such form shall contain such information as to identify said property correctly and shall include the type of property, serial number, model number, color description and purchase price of said property. 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, except as provided in subsection (e) of this section, and during that period shall make the duplicate available to any law enforcement officer for inspection at any reasonable time.
- (2) **Declaration of Ownership.** A written declaration of ownership shall be obtained from the person pawning or pledging any goods, article or thing which shall state whether he or she has owned the article, whether he or she or someone else found the article, and if the article was found, the details of its finding.
- (3) **Written Inventory.** 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, it shall be the duty of every licensee to keep a record of all articles and jewelry purchased, received, or

exchanged by her/him and it is required that a detailed description be obtained of all property purchased. Said description shall contain such information as to identify said property correctly; and shall include type of property, serial number, model number, color description and purchase price of said property. For every article, there shall be kept a written inventory. In this inventory, the licensee shall record the name and address of each customer, the date, time and place of the transaction and a detailed description of the article or jewelry which is the subject of the transaction, including the serial number and model number, if any. The customer shall sign his name on a declaration of ownership of the article or jewelry identified in the inventory and shall state that he owns the secondhand article. The licensee shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any article or jewelry for not less than one year after the date of the transaction, except as provided in subsection (e) of this section, and shall make duplicates of the inventory and declarations of ownerships available to any law enforcement officer for inspection at any reasonable time. At the time of any reportable transaction other than a renewal, extension, or redemption, every secondhand dealer shall immediately record in English the following information by using 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, except that the title, artist or author of audio tapes, compact discs, laser discs, records, videotapes, digital video discs, or other similar audio visual recording media need not be described.
- b. The licensee must also 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 a 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. Entries of required digital images shall be retained a minimum of 90 days.
- c. The purchase price, amount of money loaned upon or pledged therefore.
- d. For pawn transactions, the maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- e. Date, time, and place the item of property was received by the secondhand dealer, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the secondhand dealer's records.

- f. To the extent that it is not provided as part of the record of the customer's identification retained by the secondhand dealer, full name, current residential address, current telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, color of eyes, and color of hair.
 - g. The identification number and the state of issue of the identification presented by the seller pursuant to this chapter.
 - h. The signature of the person identified in the transaction.
 - i. For renewals, extensions, and redemptions the licensee must record the original transaction identifier, the date of the current transaction, and the type of transaction.
 - j. Computerized records must be maintained for at least one year from the date of transaction. During this time, the records must at all reasonable times be open to inspection by the police department. Notwithstanding public records laws under Wis. Stat. §§ 19.21—19.39, a law enforcement agency receiving these records may disclose the information contained therein only to another law enforcement agency, unless otherwise required by law.
 - k. The pawnbroker or secondhand article and 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 daily to the police department.
- (4) **Daily reports to police.**
- a. Pawnbrokers and secondhand article and jewelry dealers must provide to the police department all required information pursuant to state statute, by transmitting it from their computer to the North Eastern Wisconsin Property Reporting System (NEWPRS), the web server designated by the Green Bay Police Department. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker or secondhand article and jewelry dealer and the police department.
 - b. If a pawnbroker or secondhand article and jewelry dealer is unable to successfully transmit the required reports by modem, the pawnbroker or secondhand article and jewelry dealer must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.
 - c. If the problem is determined to be in the pawnbroker's or secondhand article and jewelry dealer's system and is not corrected by the close of the first business day following the failure, the pawnbroker or secondhand article and jewelry dealer must provide the required reports as detailed in state statute, and shall be charged a daily reporting failure fee of \$10.00 until the error is corrected; or, if the problem is determined to be outside the pawnbroker's or secondhand article and jewelry dealer's system, the pawnbroker or secondhand article and jewelry dealer must provide the

required reports pursuant to state statute and resubmit all such transactions via modem when the error is corrected.

- d. Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand article and jewelry dealer from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand article and jewelry dealer shall transmit every reportable transaction from every business day the problem has existed.
- (e) The provisions of this section notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(d) **Holding period.**

- (1) **Pawnbroker.** Except as provided in subsection (d)(5) of this section, 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) **Secondhand article dealer.** Except as provided in subsection (d)(5) of this section, 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 twenty-one days after the date of purchase or receipt.
- (3) **Secondhand jewelry dealer.** Except as provided in subsection (d)(5) of this section, 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 twenty-one days after the date of purchase or receipt.
- (4) **Requirements.** During the period specified in subsection (d)(1), (d)(2) or (d)(3) of this section, 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 such reasonable length of time as the law enforcement officer considers necessary to identify it.
- (5) **Exceptions.** Subsections (d)(1) to (d)(4) of this section 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 or secondhand jewelry dealer.
- (e) **Report to law enforcement agency.** Within 24 hours after purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available, for inspection by a law enforcement officer, the original form completed under subsection (c)(1), (c)(2) and/or (c)(3) of this section, whichever is appropriate. Notwithstanding Wis. Stat. § 19.35(1), 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 section 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.
- (g) **Transactions with Intoxicated Persons.** No licensee shall bargain for, take, purchase or receive in pawn any property, bonds, notes securities, articles or other valuable thing from any person reasonably believed to be intoxicated.
- (h) **Stolen Goods.** It shall be the duty of every licensee to report to the police any article pledged with him, or which is sought to be pledged with him, if he shall have reason to believe that the article was stolen or lost, and found by the person attempting to pledge it in the case of a lost article.

SEC. 7-18-7 LICENSE REVOCATION.

The Village Board may revoke any license issued by it under this Chapter for fraud, misrepresentation or false statement contained in the application for a license or for any violation of this Chapter or of Wis. Stats. §§ 943.34, 948.62 or 948.63 or for any grounds that would warrant the denial of the issuance of such license in the first instance. Prior to the investigation of any license issued under this Chapter, the licensee shall be entitled to a hearing held before the Village Board at which time evidence will be received for the purpose of determining whether or not such permit shall be revoked or whether the permit may be retained. In the event the permit is revoked, the notification and reasons for such revocation shall be set forth in writing and sent to the licensee by means of registered or certified mail or hand delivery to the address stated in such license.

SEC. 7-18-8 INJUNCTIVE RELIEF.

In addition to the legal remedies provided for in this Code of Ordinances, the operation of any pawnbroker, secondhand article dealer's, and secondhand jewelry dealer's establishment in violation of the terms of the Chapter shall be deemed a public nuisance and may be enjoined by the Village of Caledonia.

SEC. 7-18-9 LICENSE FEES.

The license fees under this Chapter are the amounts of the fees set forth under Sec. 134.71(11), Wis. Stat., and shall be paid by the applicant upon submittal of the application for such license to the Village Clerk:

- (a) Pawnbroker's license;
- (b) Secondhand article dealer's license;
- (c) Secondhand jewelry dealer's license;

Licensees shall be billed for the billable transaction fee of \$1.00 per billable transaction reflecting the cost of processing transactions and other related regulatory expenses as determined by the Village's Legislative and Licensing Committee, and shall be reviewed and adjusted, if necessary, annually. Licensees shall be notified in writing 30 days before any adjustment is implemented. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this Chapter.

SEC. 7-18-10 PENALTY FOR VIOLATION OF CHAPTER.

- (a) **First Offense.** Upon conviction for a first offense under this Chapter, a person shall forfeit not less than \$50.00 nor more than \$1,000.00. Upon conviction for a second or subsequent offense under this Chapter, a person shall forfeit not less than \$500.00 nor more than \$2,000.00.
- (b) **Second Offense.** Each violation of this Chapter and each day a violation continues or occurs shall constitute a separate offense and a separate forfeiture shall apply to each violation and each day a violation continues. The monetary penalties prescribed by this section shall not preclude the denial or revocation of a license required under this Chapter to do business.