



Legislation Text

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100208

SUBSTITUTE 3

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A substitute ordinance requiring secondhand dealers to report transactions on a police-approved Internet website, standardizing identification requirements and lengthening holding periods for certain items.

92-1-6	rc
92-2-6	rc
92-2-7	rp
92-2-8	rp
92-2-9	rn
92-2-10	rn
92-2-11	rn
92-3-2-e	cr
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92-11	cr
92-12	cr
92-13	cr

This ordinance amends the city's secondhand dealer regulations to require licensed pawnbrokers, secondhand dealers and precious metal and gem dealers to post or upload transaction description records for all items pawned, pledged, exchanged, consigned or purchased, including item descriptions and pictures, and pictures and identification of borrowers or sellers, directly to a police-approved Internet website at the close of each business day to enable the police to more quickly and easily identify and recover stolen items, solve burglaries and property thefts, and help reduce theft-of-property crimes in the city. Junk collectors and dealers are required to post or upload transaction description records for only "regulated property", e.g. aluminum (except cans) and copper items, stained glass, water meters, cemetery plaques, house of worship fixtures, catalytic converters, bicycles and manhole covers.

This ordinance also standardizes provisions for identification of borrowers and sellers,

standardizes record requirements for pawnbrokers, secondhand dealers, precious metal and gem dealers and junk collectors and dealers purchasing regulated property, and lengthens holding periods for purchases made by precious metal and gem dealers and for regulated property purchased by junk collectors and dealers.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 92-1-6 of the code is repealed and recreated to read:

92-1. Pawnbroker's License.

- 6. REGULATIONS.** a. Pawn Receipt. Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging any item a pawn receipt signed by the licensee or designee containing the name and business address of the pawnbroker, a brief description of the item, the amount of money loaned, and the date and time of pawning or pledging. There shall be no charge for issuing a pawn receipt. Every pawn receipt shall be numbered serially, a copy shall be retained by the pawnbroker and pawn receipts shall be open to inspection by the chief of police, or the chief's designee, at any reasonable time.
- b. Altered or Obliterated Serial Number. No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.
- c. Identification. Licensed pawnbrokers shall obtain adequate identification as stipulated in s. 92-11 from every person pawning, pledging, exchanging or selling any item.
- d. Recordkeeping. Every pawnbroker shall keep a transaction description record as stipulated in s. 92-12 for every item pawned, pledged, exchanged or bought.
- e. Transaction Record Reporting. Every pawnbroker shall report all transaction description records as stipulated in s. 92-13.
- f. Every item pawned, pledged, exchanged or purchased by a licensed pawnbroker shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.
- g. Holding Period. Every pawnbroker shall hold all items pawned or pledged for security on a loan, or exchanged or purchased, separate and apart from any other items, unchanged and unaltered from the form it was received for 30 days for inspection by the chief of police, or the chief's designee.
- h. Additional Holding Period. The chief of police may, at the chief's sole discretion, cause any item pawned, pledged, or purchased, which the police chief has reason to believe was not pawned, pledged or disposed of by the lawful owner, to be held for an additional holding period deemed reasonable by the chief of police after the elapse of the initial 30 -day holding period for identification by the lawful owner.
- i. Minors. No pawnbroker shall have any business dealings as a pawnbroker with any person less than 18 years of age, unless the pawnbroker obtains a written consent for each transaction signed in the dealer's presence by the parent or guardian granting permission for that person to transact business with the dealer.
- j. Intoxicated Persons. No pawnbroker shall bargain for, take, purchase or receive in pawn any item including a bond, note or security from any intoxicated person.
- k. Stolen Goods. Every pawnbroker shall report to the police any item presented to the

pawnbroker during the course of business the pawnbroker has reason to believe was stolen, either by the person presenting the item or another party.

Part 2. Section 92-2-6 of the code is repealed and recreated read:

92-2. Secondhand Dealer's License.

6. REGULATIONS. a. Altered or Obliterated Serial Number. No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.

b. Identification. No secondhand dealer shall purchase, or exchange, or accept on consignment any item without first obtaining adequate identification from the seller, exchanger or consignor as stipulated in s. 92-11.

c. Recordkeeping. For every item purchased or exchanged by a secondhand dealer on the dealer's premises, or in the city but off the dealer's premises, except secondhand clothing and clothing accessories, and for every item consigned to a secondhand dealer for sale on the dealer's premises, except secondhand clothing and clothing accessories, the secondhand dealer shall keep a transaction description record as stipulated s. 92-12.

d. Transaction Record Reporting. Every secondhand dealer, regardless of whether items are purchased or exchanged on or off dealer's premises, or consigned for sale on the dealer's premises, except purchases and exchanges of secondhand clothing and clothing accessories, shall report transaction description records as stipulated in s. 92-13.

e. Every item purchased, or taken in exchange, or accepted on consignment by a licensed secondhand dealer shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.

f. Holding Period. Every secondhand dealer shall hold all items purchased, exchanged or accepted in consignment separate and apart from any other items, unchanged and unaltered from the form it was received for 10 days for inspection by the chief of police, or the chief's designee.

g. Additional Holding Period. The chief of police may, at the chief's sole discretion, cause any item purchased or exchanged, which the police chief has reason to believe was not sold or exchanged by the lawful owner, to be held for an additional holding period deemed reasonable by the chief of police after the elapse of the initial 10-day holding period for identification by the lawful owner.

h. Minors. No secondhand dealer shall have any business dealings as a secondhand dealer with any person less than 18 years of age, unless that person is with the parent or guardian, or the dealer obtains or has on file a written consent signed in the dealer's presence by the parent or guardian granting permission for that person to transact business with the dealer.

i. Every secondhand dealer shall report to the police any item presented to the secondhand dealer during the course of business the secondhand dealer has reason to believe was stolen, either by the person presenting the item or another party.

Part 3. Section 92-2-7 and 8 of the code is repealed.

Part 4. Section 92-2-9 to 11 is renumbered as s. 92-2-7 to 9

Part 5. Section 92-3-2-e is created to read:

92-3. Junk Collectors and Dealers.

e. "Regulated property" shall mean aluminum siding, gutters, downspouts, screens, windows, window frames and doors, metal bathtubs and sinks, non-plastic pipe, copper, nonferrous metal items other than aluminum cans, stained glass, traffic signs, aluminum light poles, water meters, cemetery monument plaques, fixtures from houses of worship, catalytic converters, bicycles, bicycle frames or parts and manhole covers, including lids, grates and frames.

Part 6. Section 92-3-8 of the code is repealed and recreated to read:

8. REGULATIONS. a. Altered or Obliterated Serial Number. No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.

b. No junk collector or junk dealer shall purchase a manhole cover, including the lid, grate and frame, unless the seller provides documentation attesting to how, where and from whom the cover was acquired, and the veracity of this documentation is verified prior to purchase. This document will be retained for one year.

c. Identification. No junk collector or junk dealer shall purchase any regulated property without first obtaining adequate identification from the seller as stipulated in s. 92-11.

d. Recordkeeping for Non-Regulated Property. Every junk collector or junk dealer shall keep a transaction description record, in a form approved by the chief of police, or the chief's designee, for any non-regulated property purchased. This transaction description record shall be retained for one year and include:

d-1. A transaction number.

d-2. The date of the transaction.

d-3. The printed name and address of the seller.

d-4. The seller's junk collector or junk dealer license number, if applicable.

d-5. The type and weight of the property purchased along with any additional description of the property, if applicable.

d-6. A signed, written declaration of ownership from the seller, separate and apart from any computerized records maintained, stating whether the seller owns the property, how long the seller has owned the property, whether the seller or someone else found the property, and if the property was found, the details of its finding, or whether the property was obtained under a junk collector's license or if the seller is a licensed electrician under s. 222-11, a certified home improvement contractor under s. 95-14, or a licensed plumber under ch. 145, Wis. Stats.

d-7. The amount paid for the property.

d-8. The seller's signature.

e. Recordkeeping for Regulated Property. The transaction description record for all purchases of regulated property must include all information required in par. d, and in addition, shall include any serial numbers or identifying markings found on the item, the seller's date of birth, a photocopy of and the number from one of the forms of seller identification required in s. 92-11 or the license number of the seller's vehicle, a photograph or video recording as required in s. 92-12 of the seller and a photograph or video recording as required in s. 92-12 of the items purchased if the photograph or

video recording can reasonably be expected to help identify or distinguish purchased items from similar items. The licensee shall also keep a copy of document required in par. b for one year when purchasing a manhole cover, including the lid, grate and frame.

f. Transaction Record Reporting. Junk collectors shall locate transaction description records for non-regulated property purchases as directed by the chief of police, or the chief's designee, and junk dealers shall maintain transaction description records for non-regulated property purchases on the dealer's premises. Transaction description records shall be either computer files or written documents approved by the chief of police, or the chief's designee. Written document transaction description records shall be legible and in ink, and no entry made shall be erased, obliterated or defaced. Written document and computerized transaction description records shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time. Written documents shall be retained and computerized files shall be maintained for one year.

g. Every property purchased by a licensed junk collector or junk dealer shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.

h. Holding Period. Junk collectors and dealers shall hold regulated property for 5 business days.

i. Additional Holding Period. The chief of police may, at the chief's sole discretion, cause any property purchased, which the police chief has reason to believe was not sold by the lawful owner, to be held for 5 additional business days after the elapse of the initial 5-business-day holding period for identification by the lawful owner.

j. Minors. No junk collector or junk dealer shall have any business dealings as a junk collector or junk dealer with any person less than 18 years of age, unless that person is with the parent or guardian, or the dealer obtains or has on file a written consent signed in the dealer's presence by the parent or guardian granting permission for that person to transact business with the dealer.

k. Licensed junk collectors and junk dealers shall report to the police any item presented to the junk collector or junk dealer during the course of business the junk collector or junk dealer has reason to believe was stolen, either by the person presenting the item or another party.

l. Wholesale Lots. This section shall not apply to the buying, handling and selling of scrap metal in wholesale lots from regularly established foundries, mills, manufacturers, licensed home improvement contractors, as defined in s. 95-14, or licensed junk dealers. When purchases are made from a licensed junk collector, the record of the purchase shall state the junk collector's license number.

m. License Stickers and Signage. m-1. Each motor vehicle used by a junk collector or junk dealer for business purposes shall have affixed to it in a prominent place a sticker with the words "junk collector" or "junk dealer" stamped on it. The sticker shall be issued by the city clerk at the time the license is granted. The city clerk shall issue only stickers to those applicants granted junk collector or junk dealer's licenses.

m-2. Each motor vehicle used for business purposes subject to licensing as a junk collector or junk dealer under this section shall have identifying signs printed or affixed to both sides of the vehicle. Identifying signs shall include the name of the business or person operating the vehicle, a valid phone number for the business or person operating the vehicle, and the phrase, "City of Milwaukee Junk License No." together with the

number of the license, all located in a prominent position in letters not less than 3 inches in height. Identifying signs that satisfy state statutory or regulatory requirements for signage shall be deemed to satisfy the requirements of this subparagraph.

n. Parking Prohibited. No vehicle, as defined in s. 101-23.2-1-a, in which junk is collected or stored, shall be parked or left standing on the highways of the city unless actively engaged in loading or unloading junk. No vehicle actively engaged in loading or unloading junk may be left unattended on the highways of the city for a period greater than 10 minutes.

o. Regulations to be Posted. A copy of these regulations shall be issued to each junk collector and junk dealer at the time the license is granted. These regulations shall be posted in a conspicuous place on the premises of each junk dealer's business.

Part 7. Section 92-6 of the code is repealed and recreated to read:

92-6. Bicycle Records. Pawnbrokers, secondhand dealers, junk collectors and junk dealers shall record, as part of each dealer's required transaction description record, the serial number of any bicycle, bicycle frame or part of a bicycle that is received in the course of business to the extent that all or a portion of the serial number remains visible.

Part 8. Section 92-10-6 of the code is repealed and recreated read:

92-10. Precious Metal and Gem Dealers.

6. REGULATIONS. a. Altered or Obliterated Serial Number. No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.

b. Identification. No precious metal and gem dealer shall purchase or exchange any property without first securing adequate identification from the seller as stipulated in s. 92-11.

c. Recordkeeping. Every licensed precious metal and gem dealer shall keep a transaction description record as stipulated in s. 92-12 for any property purchased or exchanged.

d. Transaction Record Reporting. Every dealer shall report each transaction description record as required in s. 92-13.

e. Every item purchased or exchanged by a licensed precious metal and gem dealer shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.

f. Holding Period. Every property exchanged or purchased by a precious metal and gem dealer, except gold coins or bullion, or silver coins or bullion, shall be kept on the dealer's premises separate and apart from any other property, unchanged and unaltered from the form it was received for 30 days for inspection by the chief of police, or the chief's designee.

g. Additional Holding Period. The chief of police may, at the chief's sole discretion, cause any property exchanged or purchased, which the police chief has reason to believe was not exchanged or purchased by the lawful owner, to be held for an additional holding period deemed reasonable by the chief of police after the elapse of the initial 30-day holding period for identification by the lawful owner.

h. Minors. No precious metal and gem dealer shall have any business dealings as a

precious metal and gem dealer with any person less than 18 years of age, unless that person is with the parent or guardian, or the dealer obtains or has on file a written consent signed in the dealer's presence by the parent or guardian granting permission for that person to transact business with the dealer.

i. Stolen Goods. Every precious metal and gem dealer shall report to the police any item presented to the precious metal and gem dealer during the course of business the precious metal and gem dealer has reason to believe was stolen, either by the person presenting the item or another party.

Part 9. Section 92-11 of the code is created to read:

92-11. Adequate Identification. a. Adequate identification obtained by licensed pawnbrokers, secondhand dealers, junk collectors and dealers, and precious metal and gem dealers shall be limited to one of the following current and unexpired forms of identification:

a-1. A Milwaukee county identification card.

a-2. A valid Wisconsin motor vehicle operator's license.

a-3. A state identification card.

a-4. A valid motor vehicle operator's license, containing a picture, issued by another state.

a-5. A military identification card.

a-6. A valid passport.

a-7. An alien registration card.

a-8. A non-picture identification document issued by a state or the federal government, if the dealer also obtains a clear imprint of the seller's right index finger.

a-9. A senior citizen's identification card containing a photograph.

b. No person pawning, pledging, exchanging, consigning, leaving for deposit or selling any property with any licensee shall give a false or fictitious name, present false or altered identification documents, give a false date of birth or give a false address of residence or telephone number to the licensee gathering information for the transaction description record.

Part 10. Section 92-12 of the code is created to read:

92-12. Transaction Description Record. 1. Transaction description records shall be kept either as computer files or in a written document approved by the chief of police, or the chief's designee. Written transaction description record documents shall be legible and in ink, and no entry made shall be erased, obliterated or defaced. Licensed precious metal and gem dealers may keep transaction description records as sequentially numbered invoices. Blank or voided invoices kept by precious metal and gem dealers as transaction description records shall be kept in sequence. Computerized files, written documents and invoices of transaction description records shall be open to inspection by the chief of police, or the chief's designee, at any reasonable time. Computerized files, written documents and invoices of transaction description records shall be maintained and retained for one year.

2. Transaction description records shall include:

a. The date and time of the transaction.

- b. A complete description in English of the item or property pawned, pledged, consigned, exchanged or purchased including when applicable, but not limited to, any trademark, identification number, serial number, model number, brand name, any engraved number, word or initial, a description of any settings, a description by weight and design of the property, other identification marks and inscriptions of a personal nature, whether the property is a male or female item or property.
 - c. The amount of money loaned or paid.
 - d. The name, address and date of birth of the person pawning, pledging, exchanging, consigning or selling the item or property.
 - e. Identification number from and a photocopy of the identification obtained as stipulated s. 92-11.
 - f. A signed, written declaration of ownership from the person pawning, pledging, exchanging, consigning or selling the item or property, separate and apart from any computerized records maintained and on a form approved by the chief of police, or the chief's designee, stating whether the person owns the item or property, how long the person has owned the item or property, whether the person or another found the item or property, and if found, the details of its finding.
3. Photographs. a. Each transaction description shall include a color photograph or color video recording of:
- a-1. Each customer pawning, pledging, consigning, exchanging or selling an item or property.
 - a-2. Every item or property pawned, pledged, consigned, exchanged or sold without a unique serial or identification number permanently engraved or affixed.
- b. Photographs shall be at least 2 inches square. Photographs and video recordings shall be time and date stamped and maintained so they can be readily matched and correlated with all other records of the transaction. The photographs and video recordings shall be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph or the video recording of persons shall include an identifiable facial image. Property photographed or video recorded shall be accurately depicted. The licensee shall inform the person that he or she is being photographed or video recorded by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee shall keep the photograph or video recording for 3 months.
4. The person pawning, pledging, consigning, exchanging or selling the item or property shall electronically sign the computerized record, or sign an alternate form approved by the chief of police, or the chief's designee, if computerized records are maintained, or sign the written document transaction descriptions record or the invoice.
5. Transaction records shall include any other reasonable information the chief of police may from time to time require.

Part 11. Section 92-13 of the code is created to read:

92-13. Transaction Description Records Reporting.

1. Website Reporting. All transaction description records, including required photographs or video recordings, except transaction description records kept by junk collectors and junk dealers for non-regulated property, and except for signed declarations of ownership and patron signatures on transaction description records, shall be reported not later

than the close of each business day by posting and uploading all transaction description records to the Internet website approved by the chief of police, or the chief's designee, according to the protocols of the website. All transaction description record postings and uploads shall be complete and accurate. Each licensee shall display a sign, provided by the police department, of sufficient size and in a conspicuous place on the premises informing patrons all transactions are reported to the police department daily through website postings.

2. Access to Transaction Description Records. The police department may allow access to transaction description records posted or uploaded to its approved Internet website or provide copies of transaction description records and provide copies of declarations of ownership to any other law enforcement agency.

3. Website Record Entry Failures. a. Any transaction description record which cannot be posted or uploaded to the police-approved Internet website by the close of the business day due to technical malfunction shall be posted or uploaded by 12 noon the next business day; and failing that, a hardcopy of the transaction description record including photographs or video recordings shall be delivered to the chief of police, or the chief's designee, in a format approved by the chief of police, or the chief's designee, by 12 noon the next business day following the initial post or upload failure. Licensees shall continue to deliver hardcopies of transaction description records to the police chief, or the chief's designee, so long as website record post or upload failures persist.

b. If website post or upload failures are determined to be due to the licensee's system or Internet connection, a licensee shall be charged a \$100 daily penalty beginning on the fourth business day following the initial post or upload failure and continuing until transaction description records are again posted and uploaded to the police-approved Internet website. The police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

c. A licensee shall post or upload to the police-approved Internet website all transaction description records described in par. a not later than the close of the second business day following correction of the technical malfunction. Licensees shall be charged a \$100 daily penalty beginning on the third business day following correction of the technical malfunction and continuing until all transaction description records in arrears are properly posted and uploaded to the police-approved Internet website. The police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

Part 12. Provisions affecting existing licensees.

a. Pawnbrokers, secondhand dealers, junk collectors and dealers, and precious metal and gem dealers licensed before the effective date of this ordinance [city clerk to insert date] shall have an implementation period of not more than 90 days after the chief of police, or the chief's designee, provides licensees with written instruction on how to obtain a website user name and password and how to properly report transactions using the police-approved electronic reporting system. Dealers licensed after the effective date of this ordinance [city clerk to insert date] shall have no implementation period and shall report transaction description records to the police-approved website beginning

with the first day of operations.

b. During the implementation period referred to in paragraph a, licensed pawnbrokers, secondhand dealers, junk collectors and junk dealers, and precious metal and gem dealers shall report as follows:

b-1. Pawnbrokers shall deliver to the chief of police every day, before the hour of 12 noon for all items received on deposit or purchased during the preceding day, except furniture and household goods, a copy of the bound book the pawnbroker shall keep prior to the effective date of this ordinance [city clerk to insert date] in which the licensee shall write clearly and legibly in ink at the time of each loan or purchase an accurate and true description in the English language of the items pawned, pledged or bought, the amount of money loaned thereon, or paid therefor, the date and time of pledging the same, true name of person dealt with as nearly as known, as well as his or her signature, place of residence, sex, age, height, build, color of hair, complexion, color and style of beard or mustache and description of dress; and no entry made in such book shall be erased, obliterated or defaced. The description of the item shall include, but not be limited to, any trademark, identification number, serial number, model number, brand name, description by weight and design of such property, other identification marks and inscriptions of personal nature; and when applicable, whether the article is a male or female item. Such book shall be open to the inspection of the chief of police or any member of the police force designated by the chief of police during normal business hours.

b-2. Secondhand dealers shall, on a time schedule to be determined by the police department, provide a copy of the bound book the secondhand dealer shall keep prior to the effective date of this ordinance [city clerk to insert date] to the police department for all items purchased or exchanged on or off the dealer's premises or consigned for sale on the dealer's premises during the preceding time period determined by the police department, in which the dealer shall record legibly in English the name, address and date of birth of the seller and the seller's driver's license number or the number of other identification required under section 92-11 of the code. The dealer shall also record the date, time and place of the purchase 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 a personal nature and, when applicable, whether the article is a male or female item. Such register shall be made available to any police officer for inspection at any reasonable time.

b-3. Junk collectors and junk dealers shall maintain transaction description records required by section 92-3-8-d of the code and a record of the number and the type of identification from one of the forms of identification stipulated in section 92-11 of the code for regulated property purchases, on each licensee's premises. Each entry shall be made in ink and shall not be changed, erased or mutilated. Records shall be available for police department inspection at any reasonable time.

b-4. Precious metal and gem dealers shall provide the police department, on a form to be provided by the department, a record of all items purchased in which the dealer shall record the date, time and place of the purchase 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 a personal nature and, when applicable, whether the article is a male or female item. The form shall include a copy of the seller's declaration of ownership. The police department shall designate the dates on which the records and declarations shall be picked up by the police department.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB 10214-3

ANC

07/07/10

clerical correction - 7/22/10 - lp

clerical correction - 9/29/11 - lp