



Legislation Details (With Text)

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File created: 7/6/2011 **In control:** LICENSES COMMITTEE
On agenda: **Final action:** 5/22/2012

Effective date:

Title: A substitute ordinance relating to regulation of precious metal and gem dealers.

Sponsors: ALD. DAVIS

Indexes: LICENSES, PERMITS

Attachments: 1. City Attorney Opinion, 2. Amendment by Ald. Davis, 3. Hearing Notice List, 4. Hearing Notice List 3-5-12, 5. Hearing Notice List 5-7-12, 6. Memo, 7. Notice Published 6-11-12

Date	Ver.	Action By	Action	Result	Tally
7/6/2011	0	COMMON COUNCIL	ASSIGNED TO		
7/8/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
7/8/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
7/8/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
7/8/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
7/11/2011	0	LICENSES COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
2/8/2012	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
2/8/2012	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
2/13/2012	1	LICENSES COMMITTEE	AMENDED		5:0
2/13/2012	1	LICENSES COMMITTEE	AMENDED	Pass	5:0
2/13/2012	2	LICENSES COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
2/29/2012	2	LICENSES COMMITTEE	HEARING NOTICES SENT		
3/5/2012	2	LICENSES COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	4:0
5/7/2012	2	LICENSES COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	3:0
5/7/2012	2	LICENSES COMMITTEE	RECONSIDERED	Pass	3:0
5/7/2012	2	LICENSES COMMITTEE	SUBSTITUTED	Pass	3:0
5/7/2012	3	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	3:0
5/22/2012	3	COMMON COUNCIL	PASSED	Pass	12:0
6/1/2012	3	MAYOR	SIGNED		
6/11/2012	3	CITY CLERK	PUBLISHED		

110384
SUBSTITUTE 3

ALD. DAVIS
A substitute ordinance relating to regulation of precious metal and gem dealers.

92-10-1-c am
92-10-2 rc
92-10-3-e rn
92-10-3-e cr
92-10-5-a am
92-10-5-d rn
92-10-5-d cr
92-10-5-e rn
92-10-5-e cr
92-10-6-c am
92-10-6-j cr
92-10-8 am

This ordinance requires a precious metal and gem dealer licensed by the city to maintain a fixed place of business in the city at which all records of transactions conducted within the city are kept. Factors relating to the suitability of the business premises may be considered in decisions to authorize issuance of a new license and in decisions to renew, suspend or revoke a license.

The ordinance includes the same exceptions as s. 134.71, Wis. Stats., regulating secondhand article and jewelry dealers.

The ordinance clarifies procedures for application for and, renewal, suspension and revocation of, a precious metal and gem dealer license.

The ordinance also requires that an application include a plan of operation which requires disclosure of the following:

1. The principal location of the applicant's business within the city at which all required records are kept and available for inspection.
2. The location or locations at which the applicant will conduct business as a precious metal and gem dealer within the city; and
3. If transactions involving the sale, purchase or exchange of precious metals or gems are conducted at locations in addition to the identified business premises, a description of the manner in which such transactions will be conducted including whether transactions will occur at temporary locations, door-to-door or otherwise.

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

Part 1. Section 92-10-1-c of the code is amended to read:

92-10. Precious Metal and Gem Dealer's License. 1. DEFINITIONS.

c. "Precious metal and gem dealer" means any person, corporation, partnership or association which engages in any transaction of buying, selling or receiving secondhand jewelry, sterling silverware or gold or silver coins or bullion to and from the public ~~[[within the city from a fixed and regular place of business]].~~ "Precious metal and gem dealer" does not include a business which smelts, refines, assays or manufactures precious metals, gems or valuable articles and has no retail operation open to the public.

Part 2. Section 92-10-2 of the code is repealed and recreated to read:

2. LICENSE REQUIRED. a. No person, corporation, partnership or association shall engage in the business of dealing in, selling and exchanging secondhand jewelry, sterling silverware or gold and silver coins or bullion without having first obtained a license as provided in this section or without having first obtained a license issued by another municipality as provided in s. 134.71, Wis. Stats.

b. The requirements of this section shall not apply to:

b-1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show or a convention.

b-2. Any transaction with a licensed secondhand jewelry dealer.

b-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.

b-4. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves the return of the jewelry or the exchange of the jewelry for different, new jewelry.

b-5. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

b-6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

Part 3. Section 92-10-3-e of the code is renumbered 92-10-3-f.

Part 4. Section 92-10-3-e of the code is created to read

e. A plan of operation that includes, in addition to the information required in pars. a to d, the following:

e-1. The principal location of the applicant's business within the city at which all records required under s. 92-12 are kept and available for inspection.

e-2. The location or locations at which the applicant will conduct business as a precious metal and gem dealer within the city.

e-3. If transactions involving the sale, purchase or exchange of precious metals or gems are conducted at locations in addition to the identified business premises, a description of the manner in which such transactions shall be conducted, including whether transactions will occur at temporary locations, door-to-door or otherwise.

e-4. The hours of business operation.

e-5. The status of all permits relating to occupancy and business operations upon business premises.

e-6. Plans the applicant has to ensure that business is not conducted with minors, except as provided in sub. 6-h.

e-7. Plans the applicant has to provide security for the business premises, for business records and for transactions and transportation involving precious metals and gems conducted at locations other than identified business premises.

e-8. A description of the anticipated proportion of the business, in volume of sales or monetary value, that will involve transactions in precious metals and gems during the license period, and the proportion of any transactions by percentage that will constitute sales, purchases or other exchanges of gold.

e-9. Identification of any other licenses held by the applicant or attached to the premises.

Part 5. Section 92-10-5-a of the code is amended to read:

5. ISSUANCE; TERMS. a. The common council may authorize or deny the license >> and, upon authorizing issuance of a license, may require amendment of a plan of operation for promotion and protection of the health, welfare and safety of the public<<.

Part 6. Section 92-10-5-d and e of the code is renumbered 92-10-5-f and g.

Part 7. Section 92-10-5-d and e of the code is created to read:

d. In authorizing the issuance, denial, nonrenewal or revocation of a license, or conditioning the issuance of a license upon amendment to the plan of operation, the common council may consider factors affecting the health, welfare and safety of the public that include probative evidence of factors provided in s. 85-4-4-c relating to activities of persons who congregate or may congregate on or around the business premises.

e. No new or renewal license may be granted to an applicant if the application does not include the plan of operation required in sub. 3-f.

Part 8. Section 92-10-6-c of the code is amended to read:

6. REGULATIONS.

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>> and shall maintain required records at the location identified in the application and plan of operation<<.

Part 9. Section 92-10-6-j of the code is created to read:

j. Changes to be reported. Any change to information contained in the application or plan of operation shall be reported to the city clerk within 10 days.

Part 10. Section 92-10-8 of the code is amended to read:

8. PENALTY. a. Any person, firm or corporation violating this section shall, upon conviction for a first

offense, forfeit not less than \$50 nor more than \$1,000, together with the costs of prosecution and, in default of payment, ~~[[shall be imprisoned in the house of correction or county jail not to exceed 6 months, or until such forfeiture costs are paid in full]]~~ >>may be imprisoned as provided by law<<.

b. Any person, firm or corporation violating this section shall upon conviction for the second and subsequent offenses, forfeit not less than \$500 nor more than \$2,000, together with the costs of prosecution, and in default of payment, ~~[[shall be imprisoned in the house of correction or county jail not to exceed 6 months, or until such forfeiture costs are paid in full]]~~>>may be imprisoned as provided by law<<.

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: _____

LRB128741-3.0
Richard L. Withers
5/3/2012