

## **CHAPTER 39**

### **REGULATION OF SECONDHAND DEALERS**

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### 39.01 LICENSE REQUIRED

- (1) Except as provided in Subdivisions (2) and (3) below, no person shall carry on or operate within the City of Reedsburg a business as a pawnbroker or a business for the purchase or sale of secondhand articles or jewelry without first having obtained a license therefore as hereinafter provided.
- (2) A person, other than a pawnbroker or secondhand jewelry dealer, who operates as a secondhand dealer only on premises or land owned by a person having a secondhand article dealer mall or flea-market license under Section 39.05 need not obtain a secondhand article dealer's license.
- (3) A person possessing a valid secondhand article dealer license or a valid secondhand jewelry dealer license issued by a county or another municipality of the State of Wisconsin under Wis. Stat. § 134.71 of the Wisconsin Statutes or an ordinance adopted pursuant thereto may operate a business in the City of Reedsburg as a secondhand article dealer or a secondhand jewelry dealer respectively without obtaining a license hereunder. This subsection is not intended to exempt such person from otherwise complying with the provisions of Sec.39.01 relating to secondhand dealers.

### 39.02 DEFINITIONS

The following definitions apply to this Chapter

- (1) Article means any of the following articles except jewelry:
  - (A) Audio-visual equipment.
  - (B) Bicycles.
  - (C) China.
  - (D) Computers, printers, software and computer supplies.
  - (E) Computer toys and games.
  - (F) Crystal.
  - (G) Electronic equipment.
  - (H) Fur coats and other fur clothing.
  - (I) Ammunition and knives.
  - (J) Microwave ovens.
  - (K) Office equipment.
  - (L) Pianos, organs, guitars and other musical instruments.
  - (M) Silverware and flatware.
  - (N) Small electrical appliances.
  - (O) Telephones.
  - (P) Audio tapes, compact discs, laser discs, records, videotapes, digital video discs or other similar audio or audio-visual recording devices.
- (2) Jewelry means 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.
- (3) 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 expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.
- (4) Secondhand means owned by any person except a wholesaler, retailer or secondhand article or jewelry dealer licensed under this section or Sec. 134.71 of the Wisconsin Statutes or an ordinance adopted pursuant thereto immediately prior to the transaction at hand.

39.02 Definitions

- (5) 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:
- (A) Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.
  - (B) 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 Wis. Stat. § 134.71 or under any ordinance adopted pursuant thereto.
  - (C) 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. Stat. § 70.995(2).
  - (D) Any transaction while operating as a charitable organization or conducting a sale and the proceeds of which are donated to a charitable organization.
  - (E) Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
    - 1. The return of the article.
    - 2. The exchange of the article for a different, new article.
  - (F) Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
  - (G) Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
  - (H) Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.
  - (I) Any transaction between a buyer of a new article and a seller of new articles who accepts an occasional secondhand article in trade.
- (6) Secondhand dealer means a secondhand article dealer, a secondhand jewelry dealer or a pawnbroker.
- (7) 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:
- (A) Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, a convention or an auction.
  - (B) Any transaction with a licensed secondhand jewelry dealer.
  - (C) Any transaction while operating as a charitable organization or conducting a sale and the proceeds of which are donated to a charitable organization.
  - (D) Any transaction between a buyer of a new jewelry and the person who sold the jewelry when new which involves any of the following:
    - 1. The return of the jewelry.
    - 2. The exchange of the jewelry for different, new jewelry.
  - (E) Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
  - (F) Any transaction as a seller of the secondhand jewelry which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
  - (G) 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.
  - (H) Any transaction between a buyer of new jewelry ad a seller of new jewelry who accepts occasional secondhand jewelry in trade.

**39.03 APPLICATION AND FEES**

- (1) Applications. Written applications for licenses under this section for specific premises, together with the applicable license fees, shall be filed with the City Clerk for presentation to the Common Council at any regular or special meeting thereof. The Clerk shall file a copy of such application with the Police Department forthwith. Licenses issued under this section shall not be transferable.
- (A) The application shall state the following:
1. The applicant's name, place and date of birth and residence address.
  2. The names and addresses of the business and of the owner of the business premises.
  3. A statement as to whether the applicant has been convicted within the preceding 10 years of a felony or within the preceding 5 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 and, if so, the nature and date of the offense and the penalty assessed.
  4. Whether the applicant is a natural person, corporation 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.
  5. The name of the manager or proprietor of the business.
  6. Any other information that the City Clerk may reasonably require.
- (2) Fees the license fees under this section are as follows:
- (A) The fee for a secondhand article dealer license shall be forty dollars (\$40.00) per year excepting secondhand article dealers who operate a business for buying, selling, exchanging or receiving into possession used or secondhand parts of bicycles for which the license fee shall be twenty-seven dollars and fifty cents (\$27.50) per year.
- (B) The fee for a pawnbroker's license is two hundred ten dollars (\$210.00).
- (C) The fee for a secondhand dealer's license is forty dollars (\$40.00).
- (D) The license fee for a secondhand dealer mall or flea market license shall be one hundred sixty five dollars (\$165.00) per year. A special event secondhand dealer mall or flea market license shall be fifty dollars (\$50.00) for a period of no more than three (3) consecutive days. The license shall set forth the exact days on which such business or event may be carried on. *(Rev. 11-14-11)*
- (3) Separate License. A separate license shall be obtained for each individual premises from which the business is operated.
- (4) License Renewal. Annual licenses shall expire on the thirtieth (30<sup>th</sup>) day of June after the granting thereof. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of fifteen percent (15%) of the license fee or a minimum of three dollars (\$3.00), whichever is greater. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a license.
- (5) Investigation of License Applicant. Before any license is issued under the provisions of this section, an investigation of the character of the applicant and its members, officers and employees shall be made by the Police Department and a written report filed with the City Clerk and made a part of the application. This investigation shall include fingerprinting of the applicant and all employees who are directly involved in the receipt of secondhand articles or jewelry from customers as well as a determination by the Police Department whether the applicant has been convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor,

statutory violation punishable by forfeiture or county or municipal ordinance violation described under subsection 39.03(3)(A)3. herein and, if so, the nature and date of the offense and the penalty assessed. Where the applicant is a corporation or partnership, this provision shall apply to all its officers and each general partner respectively.

- (6) License Issuance. The Common Council shall grant the license if all of the following apply:
- (A) The applicant, including an individual, a partner or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 5 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 relate to the circumstances of being a secondhand article dealer, secondhand jewelry dealer or pawnbroker.
  - (B) With respect to an applicant, all or any part of whose secondhand dealer business involves transactions as a pawnbroker, the applicant provides to the City Clerk a bond of \$500.00, with not less than two sureties, for the observation of all municipal ordinances relating to secondhand dealers and pawnbrokers.
  - (C) The appropriate license fee for each individual premises has been paid.
  - (D) No license issued under this section may be transferred.

#### **39.04 RESTRICTIONS AND REQUIREMENTS OF SECONDHAND DEALERS**

- (1) Identification. No secondhand article dealer, secondhand jewelry dealer or pawnbroker 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 of the customer by obtaining a physical description of the person and shall also include the subject's driver license number, Social Security number of Wisconsin Identification number. At the time of the transaction, the dealer shall require the customer to present one of the following types of identification:
- (A) A county identification card.
  - (B) A state identification card.
  - (C) A valid Wisconsin Motor vehicle operator's license.
  - (D) A valid motor vehicle operator's license, containing a picture issued by another state.
  - (E) A military identification card.
  - (F) A valid passport.
  - (G) An alien registration card.
  - (H) A senior citizen's identification card containing a photograph.
  - (I) Any identification document issued by a state or federal government, whether or not containing a picture, if the pawnbroker, secondhand dealer or secondhand jewelry dealer obtains a clear imprint of the customer's right index finger.
- (2) Records. It shall be the duty of every secondhand dealer to keep a record of all articles and jewelry purchase 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.
- (3) On Premise Sales. Except as provided in Paragraphs (4) and (5), for each transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer, a secondhand dealer shall require the customer to complete and sign, in ink, Reedsburg Police Department form entitled Property Transaction Record. No entry on such a form may be erased, mutilated or changed. The dealer shall further forward a completed

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original copy of the form or the Reedsburg Police Department within five working days of said transaction. The correct address of residence of the seller shall also be included. The original copy and one duplicate of such daily record shall be retained for not less than one year from the date of the transaction and furnished upon demand to the police. Records shall be kept of the signature of all persons from whom any articles or jewelry are purchased by the secondhand dealers hereunder together with the license number of the vehicle when such articles are delivered by motor vehicle, except that no license number shall be required for transactions consisting solely of audio-visual recording devices. Such records shall be retained for not less than one year after the date of the transaction and during that period shall be made available to any law enforcement officer for inspection at any reasonable time. Notwithstanding Wis. Stat. § 19.35(1), a law enforcement agency receiving the original Property Transaction Record, Audio/Visual Recording Device Transaction Record, inventory or declaration of ownership may disclose it only to another law enforcement agency.

- (4) Audio Tapes, Compact Discs, Laser Discs, Records, Video Tapes and Other Similar Audio or Audio-visual Recording Devices. The provisions of Paragraph (1) shall apply to each transaction of purchase, receipt or exchange of one or a combination of audio tape(s), compact disc(s), laser disc(s), record(s), video tape(s), digital video disc(s) or other similar audio or audio-visual recording device for which the total paid by the secondhand dealer is \$5.00 or greater. For each such transaction, a secondhand dealer shall require the customer to complete and sign, in ink, Reedsburg Police Department form entitled Audio/Visual Recording Device Transaction Record. The form shall require, among other things, that each individual article be listed by title and artist and any other feature adequate to identify each specific article included in the \$20.00 or more transaction.
- (5) Off Premises Sales. For every secondhand article or jewelry purchased, received or exchanged by a secondhand dealer from a customer off the secondhand dealer's premises, the secondhand dealer shall keep a written inventory. In this inventory the secondhand 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 or jewelry which is the subject of the transaction. The customer shall sign her or his name on a declaration of ownership of the secondhand article or jewelry identified in the inventory and shall state that she or he owns the secondhand article or jewelry. The secondhand dealer shall retain an original and duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article or jewelry for not less than one year after the date of the transaction and shall make duplicates of the inventory and declarations of ownership available to the Reedsburg Police for inspection at any reasonable time.
- (6) Transactions with Minors. No purchase, receipt or exchange of any secondhand article or jewelry shall be made from any person under the age of eighteen (18) years, except that a secondhand article dealer may engage in a transaction involving the purchase, receipt or exchange of computer toys and games and audio tapes, compact discs, laser discs, records, video tapes or other similar audio or audio-visual recording device, from a minor if the minor is accompanied by her/his parent or guardian at the time of the transaction.
- (7) Holding Period.
  - (A) Except as provided in Paragraph (E), any secondhand article or jewelry purchased or received by a pawnbroker shall be kept on the dealer'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 jewelry recovers it.
  - (B) Except as provided in Paragraph (E), any secondhand article purchased or received by a secondhand dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 10 days after the date of purchase or receipt.

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- (C) Except as provided in Paragraph (E), any secondhand jewelry purchased or received by a secondhand jewelry dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 15 days after the date of purchase or receipt.
- (D) During the period set forth in Paragraphs (A), (B) and (C), the secondhand article or jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or jewelry during this period.

Within 24 hours after a written request of a law enforcement office during this period, a pawnbroker or other secondhand dealer shall make available for inspection any secondhand article or jewelry which is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand article or jewelry was not sold or exchanged by the lawful owner may direct a secondhand dealer to hold that secondhand article or jewelry for a reasonable length of time which the law enforcement officer considers necessary to identify it.

- (E) Paragraphs (A) to (D) do not apply to the following:
  1. A secondhand article consigned to a pawnbroker or other secondhand dealer.
  2. A coin of the United States, any gold or silver coin or gold or silver bullion.
  3. An audio tape, compact disc, laser disc, digital videodisc, record, videotape or other similar audio or audio-visual recording device.

#### **39.05 SECONDHAND ARTICLE DEALER MALL OR FLEA MARKET**

- (1) License. The owner of any premises or land upon which two or more persons operate as secondhand article dealers may obtain a secondhand article dealer mall or flea market license for the premises or land if the following conditions are met:
  - (A) Each secondhand article dealer occupies a separate sales location and identifies herself or himself to the public as a separate secondhand dealer.
  - (B) The secondhand article dealer mall or flea market is operated under one name and at one address, and is under the control of the secondhand article dealer mall or flea market license holder.
  - (C) Each secondhand article dealer delivers to the secondhand article dealer mall or flea market license holder, at the close of business on each day that the secondhand article dealer conducts business, a record of his or her sales that includes the location at which each sale was made. *(Rev. 11-14-11)*
  - (D) The secondhand article dealer license holder and each secondhand article dealer operating upon the premises or land shall comply with Section 39.04 (7).
- (2) Procedure for Revocation, Suspension or Nonrenewal. In addition to any other penalty provided by these ordinances, any secondhand article dealer license, secondhand jewelry dealer license, pawnbroker license or secondhand article mall or flea-market license may be revoked, suspended or ordered not to be renewed for a stated period of time by the City Council, after notice and hearing, for any violation of this Chapter 39; for any violations of any other Reedsburg Ordinances or state statutes where the circumstances of the offense are substantially related to the circumstances of being a secondhand dealer; for fraud, misrepresentation or false statement contained in the application for a license; or for any violation of Wis. Stats. § 943.34 (receiving stolen property), 948.62 (receiving stolen property from a child) or 948.63 (receiving stolen property from a child).

**39.06 PENALTY**

- (1) Upon conviction for a first offense under this section, a person shall forfeit not less than \$50.00 nor more than \$1,000.00.
- (2) Upon conviction for a second or subsequent offense under this section, a person shall forfeit not less than \$500.00 nor more than \$2,000.00.