

BODY – VERSION 7- AMENDED 5TH SUBSTITUTE

DRAFTER'S ANALYSIS: This proposal requires that secondhand dealers (including secondhand jewelry dealers and pawnbrokers) compile electronic databases of sales and purchases and that the secondhand dealers submit the data to the Police Department each day, in a format approved by the Police Department. Currently records of transactions are kept with paper records and the city is required to manually compile lists of such items. Used textbook dealers are not required to make electronic reports of transactions. Transaction reports involving audio tapes, compact discs, laser discs, records, videotapes, digital video discs or other similar audio or audio-visual media need not include the title of the work nor the name of the author or artist. The proposal prohibits purchases by secondhand dealers from persons who are intoxicated or impaired or from persons under the age of 18. The proposal also requires that serial numbers must be recorded by a secondhand dealer when such serial numbers are available and when serial numbers are not available, a photograph or a video of the item must be made if the transaction is made by a pawnshop or secondhand jewelry dealer. The proposal also requires that a photograph or video of the seller of the goods must also be made by a pawnshop or secondhand jewelry dealer. The holding period for computer or video games subject to electronic reporting by a secondhand article dealer is reduced to seven days. The bond amount is increased from \$500 to \$5000 for pawnshops. License fees are increased for pawnshops from \$300 to \$5000 and from \$75 to \$500 for other secondhand dealers other than secondhand textbook dealers. The license fee for secondhand jewelry dealers is increased from \$75.00 to \$2,000. The license fee for secondhand textbook dealers remains \$75.00. This proposal creates a new license category for precious metal dealers, and a license fee of \$2,000 is established for this category. The fees are increased in order to offset the additional city costs for compliance software and a police analyst. The proposal creates penalties for a seller who sells or pawns property not owned by the seller and requires that sellers provide proper identification. Secondhand Article Dealers and Secondhand Jewelry Dealers licensed by other Wisconsin municipalities must comply with investigation and fingerprint requirements, electronic and other recordkeeping, labeling, receipt requirements and holding periods required of those licensed by the City of Madison. Such Dealers licensed in another Wisconsin jurisdiction will also be required to post a \$2,000 bond for the observation of all municipal ordinances. The ordinance shall become effective on February 1, 2012. License fee increases sunset on June 30, 2013.

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

"9.24 LICENSING OF SECONDHAND DEALERS.

(1) Purposes.

(a) The City finds that a paper-based system of tracking and recording secondhand dealer sales and purchases is technologically outdated, inefficient and environmentally irresponsible. This section implements and establishes the required use of an electronic reporting system to record transactions by secondhand dealers.

(b) The City recognizes that pawnshops are legitimate businesses authorized by state law. However, the City finds that the services offered by pawnshops provide an opportunity for individuals to potentially transfer stolen property to those businesses. The City also finds that consumer protection regulation is warranted in transactions involving these businesses. The City further finds that pawnshop transactions have outgrown the City's current ability to effectively or efficiently identify criminal activity related to them. The purpose of the City's regulation of pawnshops is to prevent pawnshops from being used to facilitate the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of citizens, pursuant to authority granted by Wis. Stat. § 134.71.

(42) License Required.

- (a) Except as provided in Subs. (b) and (c) below, no person shall carry on or operate within the City of Madison a business as a pawnbroker or a business for the purchase or sale of secondhand articles or jewelry or precious metals without first having obtained a license therefor as hereinafter provided.
- (b) A person, other than a pawnbroker, precious metal dealer or secondhand jewelry dealer, who operates as a secondhand article dealer only on premises or land owned by a person having a secondhand article dealer mall or flea-market license under Subsection (78) need not obtain a secondhand article dealer's license.
- (c) 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 or an ordinance adopted pursuant thereto may operate a business in the City of Madison as a secondhand article dealer or a secondhand jewelry dealer respectively without obtaining a license hereunder. A secondhand article dealer or a secondhand jewelry dealer so licensed shall disclose the information required by Sec. 9.24(4)(a) to the City Clerk and shall submit to an investigation of the principal and its members, officers and employees by the Police Department and a written report filed with the City Clerk prior to conducting business in the City of Madison. This investigation shall include fingerprinting of the principal, if the principal is a natural person, and fingerprinting of all managers, assistant managers or lead workers who supervise 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 principal has been convicted within the preceding ten (10) years of a felony or within the preceding five (5) years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation described under Sub. (4)(a)3. herein and, if so, the nature and date of the offense and the penalty assessed. Where the principal is a corporation, limited liability company or partnership, this provision shall apply to all its officers and each general partner or member respectively. This subsection is not intended to exempt such person from otherwise complying with the provisions of Sec. 9.24 relating to secondhand dealers including but not limited to all electronic or other record-keeping requirements, labeling and receipt requirements and holding periods mandated by this Sec. 9.24.
1. A person possessing a valid secondhand article dealer or a valid secondhand jewelry dealer license issued by a county or another municipality of the State of Wisconsin under Wis. Stats. Sec. 134.71 or an ordinance adopted thereto and operating in the City of Madison shall provide a bond of two thousand dollars (\$2000) to the City Clerk, prior to conducting business in the City of Madison. Such bond shall have not less than two sureties and shall be for the observation of all municipal ordinances relating to secondhand article dealers and secondhand jewelry dealers.
- (d) 1. A secondhand dealer includes a person who is engaged, from a temporary location in the City of Madison, in the business of selling or purchasing articles under this Sec. 9.24. Such persons shall obtain a secondhand dealer's license under this Sec. 9.24. For the purposes of this Sub. (d), a temporary location shall include, but shall not be limited to, a hotel or motel meeting room or guest room.

2. A secondhand jewelry dealer includes a person who is engaged in the business of selling or purchasing jewelry from a temporary location in the City of Madison and such person shall obtain a secondhand jewelry dealer's license under this Sec. 9.24. For the purposes of this Sub. (d), a temporary location shall include, but shall not be limited to, a hotel or motel meeting room or guest room.
3. For the purposes of this Sub. (d), it shall be prima facie evidence that a person is engaging in the activities covered by this Sub. (d), if the person places advertisements, listings or notices in any media offering to sell or purchase items subject to this section and provides a location where such purchases may be made within the City of Madison or the advertisement provides a telephone number or an internet or other electronic communication address, through which appointments are made for such transactions to be conducted within the City of Madison.

(23) Definitions. The following definitions apply to this section:

Article means any of the following articles except jewelry:

1. Audio-visual equipment.
2. Bicycles.
3. China.
4. Computers, printers, software and computer supplies.
5. Computer toys and games.
6. Crystal.
7. Electronic equipment, including portable media players.
8. Fur coats and other fur clothing.
9. Ammunition and knives.
10. Microwave ovens.
11. Office equipment.
12. Pianos, organs, guitars and other musical instruments.
13. Silverware and flatware.
14. Small electrical appliances.
15. Telephones.
16. Audio tapes, compact discs, laser discs, records, videotapes, digital video discs or other similar audio or audio-visual recording media devices.
17. Firearms.
18. Tools.
- ~~19. Gold or silver, including coins, bullion, watches, watch bands, or other items made primarily from gold or silver.~~

Billable transaction means every reportable transaction conducted by a secondhand dealer except renewals, redemptions, voids, or extensions of existing pawns or purchases previously reported and continuously in the secondhand dealer's possession.

Charitable organization means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Firearm has the meaning given in Sec. 25.01(1), MGO.

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. Jewelry does not include sterling silverware, gold or silver coins, gems, bullion or other items made in whole or in part from gold, silver, platinum or any metal, mineral or gem

customarily regarded as precious or semiprecious which are not property ordinarily wearable on the person.

Pawnbroker means any person who engages in the business of lending money on the deposit or pledge of any article, or jewelry or any item of tangible personal property, or purchasing any article, or jewelry or any item of tangible personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

Precious metal dealer means any person who engages in any transaction of purchasing, selling, receiving or exchanging secondhand jewelry, sterling silverware, gold or silver coins, gems, bullion or other items made in whole or in part from gold, silver, platinum or any metal, mineral or gem customarily regarded as precious or semiprecious. A holder of a precious metal dealer license issued by the City of Madison does not need to obtain a separate secondhand jewelry license in order to purchase, sell receive or exchange secondhand jewelry.

Reportable transaction means every transaction conducted by a secondhand dealer in which an article, articles or jewelry are 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 secondhand dealer shall maintain a record of such purchase or consignment that describes each item, and shall mark each item in a manner that relates 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.
3. Secondhand textbooks shall not be subject to electronic reporting but shall be subject to recordkeeping requirements as provided in Sec. 9.24(7).

Secondhand means owned by any person except a wholesaler, retailer 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.

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 Sec. 9.24(42), MGO, 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. Stat. § 70.995(2).
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.
6. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
7. 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.
8. 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 or purchasing operation open to the public.
9. Any transaction between a buyer of a new article and a seller of new articles who accepts an occasional secondhand article in trade.

Secondhand dealer means a secondhand article dealer, a secondhand jewelry dealer, **a precious metal dealer**, a secondhand textbook dealer, or a pawnbroker.

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 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 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 different, new jewelry.
5. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
6. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.
7. 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.
8. Any transaction between a buyer of new jewelry and a seller of new jewelry who accepts occasional secondhand jewelry in trade.

Secondhand textbook dealer means any person who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand textbooks if the person's total receipts for the sale of textbooks accounts for at least twenty-five percent (25%) of its gross receipts in the most recent calendar year.

Textbook means a book used in technical schools, colleges and universities as a manual of instruction.

(34) Application and Fees. 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 City Clerk shall file a copy of such application with the Police Department forthwith, and applications for licenses shall be presented to the Common Council at any regular or special meeting thereof. 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 relate 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 limited liability company or partnership, and:
 - a. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
 - b. If the applicant is a partnership, the names and addresses of all partners.
 - c. If the applicant is a limited liability company, the names and addresses of all members.
5. For all license applications, the name of the manager or proprietor of the business.
6. Whether the applicant or any other person listed in Subsection 4. above has ever used or been known by a name other than the listed name, and if so, the name or names used and information concerning dates and places used.
7. Whether the applicant or any other person listed in Subsection 4. above has previously been denied or had revoked or suspended a pawnbroker, secondhand article dealer, **precious metal dealer** or secondhand jewelry dealer license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.
68. Any other information that the City Clerk may reasonably require for such purposes.

(b) The license fees under this section are as follows:

1. The fee for a secondhand article dealer license shall be ~~seventy-five dollars (\$75.00)~~ five hundred dollars (\$500) per year excepting secondhand article dealers who operate a business for buying, selling, exchanging or receiving into possession used or secondhand bicycles and used or secondhand parts of bicycles for which the license fee shall be ~~thirty~~ five hundred dollars (\$30.00500) per year.
2. The fee for a pawnbroker's license is ~~three hundred dollars (\$300)~~ five thousand dollars (\$5,000) per year.

3. The fee for a secondhand jewelry dealer's license is ~~seventy-five dollars (\$75.00)~~ two thousand dollars (\$2,000) per year.
 4. The license fee for a secondhand dealer mall or flea-market license shall be ~~two hundred dollars (\$200)~~ five hundred dollars (\$500) per year. A special event secondhand dealer mall or flea-market license shall be seventy-five dollars (\$75) 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.
 5. The fee for a secondhand textbook dealer's license is seventy-five dollars (\$75.00) per year.
 6. The fee for a precious metal dealer license is two thousand dollars (\$2,000) per year.
- (c) A separate license shall be obtained for each individual premise from which the business is operated.
- (d) Annual licenses shall expire on the thirtieth (30th) 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), 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.
- (45) 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, if the applicant is a natural person, and all managers, assistant managers or lead workers who supervise 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 ten (10) years of a felony or within the preceding five (5) years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation described under Sub. (34)(a)3. herein and, if so, the nature and date of the offense and the penalty assessed. Where the applicant is a corporation, limited liability company or partnership, this provision shall apply to all its officers and each general partner or member respectively.
- (56) 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 ten (10) years of a felony or within the preceding five (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~~ five thousand dollars (\$5,000), 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.
- (67) Restrictions and Requirements.

- (a) Identification. No secondhand article dealer, secondhand jewelry dealer, **precious metal dealer**, secondhand textbook dealer, or pawnbroker may engage in a transaction of purchase, receipt pawn or exchange of any secondhand article, secondhand textbook, or secondhand jewelry from a customer without first securing adequate identification from the customer. Adequate identification shall include a detailed 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~~ or 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 current and valid:
1. A county identification card
 2. A state identification card.
 3. A valid Wisconsin motor vehicle operator's license.
 4. A valid motor vehicle operator's license, containing a picture issued by another state.
 5. A military identification card.
 6. A valid passport.
 7. An alien registration card.
 8. A senior citizen's identification card containing a photograph.
 9. 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, or secondhand textbook dealer obtains a clear imprint of the customer's right index finger.
 10. Any valid college, university, or technical school identification card.
 11. A valid identification card or motor vehicle operator's license issued by a tribal government or foreign country.
- (b) Records. It shall be the duty of every license holder to keep a record of all articles and jewelry purchased 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.~~ The description need not include the title, artist or author of audiotapes, compact discs, laser discs, records, videotapes, digital video discs or other audio or audio-visual recording media. 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:
1. ~~On Premise Sales. Except as provided in Paragraphs 2. and 3., 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, Madison 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 original copy of the form to the Madison 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 licensees 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 as defined in Sec. 9.24(2)16. 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 Sec. 19.35(1) of the Wisconsin Statutes, 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.

~~2. 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 \$20.00 or greater. For each such transaction, a secondhand dealer shall require the customer to complete and sign, in ink, Madison 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.~~

~~3. Textbooks. The provisions of paragraph 1 shall apply to each transaction for the purchase, receipt or exchange of one or more textbooks by a secondhand textbook dealer. For each such transaction, a secondhand textbook dealer shall require the customer to complete and sign, in ink, a form approved by the Madison Police Department. The form shall require, among other things, that each individual textbook be listed by title and author, by international standard book number (ISBN) or by any other information adequate to identify each textbook included in the transaction. Should the secondhand textbook dealer include the necessary information on a receipt of the transaction, a copy of the receipt attached to the form shall satisfy this ordinance. Secondhand textbook dealers need not forward a completed copy of the form to the Madison Police Department as provided in Paragraph 1., but shall maintain the records for a six (6) month time period and shall make the records available upon demand of the police.~~

~~4. 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 or consigned to the secondhand dealer for sale on 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 any law enforcement officer for inspection at any reasonable time.~~

1. 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 or audio visual recording media need not be described.
2. The purchase price, amount of money loaned upon or pledged therefore.
3. 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.
4. 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.
5. 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 residence 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.
6. The identification number and the state of issue of the identification presented by the seller pursuant to Sec. 9.24(7)(a).
7. The signature of the person identified in the transaction.
8. For renewals, extensions, and redemptions the secondhand dealer must record the original transaction identifier, the date of the current transaction, and the type of transaction.
9. Data entries must be maintained for at least one (1) year from the date of transaction. During this time, the records must at all reasonable times be open to inspection by the Police Department.

(c) Daily Reports to Police.

1. Secondhand dealers, other than secondhand textbook dealers, must submit every reportable transaction to the Police Department daily in the following manner. Secondhand dealers must provide to the Police Department all information required in sub. (b) and other required information, by electronically transferring it from their computer to the Police Department approved data server. All required records must be transmitted completely and accurately within twenty-four (24) hours of the transaction in accordance with standards and procedures established by the Police Department using procedures that address security concerns of the secondhand dealer and the Police Department. The secondhand 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 department.

2. If a secondhand dealer is unable to successfully transfer the required reports electronically, the secondhand dealer shall notify the Police Department of the reason the dealer is unable to transfer the required reports and shall provide the Police Department with an estimated time of compliance. The secondhand dealer shall provide the Police Department with electronic copies of all reportable transactions that have not been transmitted electronically in a form approved by the Police Department by 5:00 PM of the next business day, unless the secondhand dealer electronically transfers the data prior to that time.
 3. If the problem is determined to be in the secondhand dealer's system and is not corrected by the close of the first business day following the failure, the secondhand dealer shall be charged a daily reporting failure fee of ten dollars (\$10.00) until the error is corrected. If the problem is determined to be outside the secondhand dealer's system, the secondhand dealer shall not be charged the reporting failure fee.
 4. Regardless of the cause or origin of the technical problems that prevented the secondhand dealer from uploading the reportable transactions, upon correction of the problem, the secondhand dealer shall electronically upload the information required in subsection (b) from every reportable transaction that occurred since the problem began.
 5. The provisions of this section notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay or waive the implementation of the daily reporting penalty.
 6. Exception for Customer Return or Exchange. Nothing in this section applies to the return or exchange from a customer to a secondhand dealer of any secondhand article purchased from the secondhand dealer.
 7. Photographs. Each pawn, **precious metal** or second hand jewelry transaction shall include a color photograph or color video recording of each customer pawning, pledging, consigning, exchanging or selling an item or property, and every item or property pawned, pledged, consigned, exchanged or sold without a unique serial or identification number permanently engraved or affixed. Photographs shall be at least two (2) inches square and photographs and video recordings shall be time and date stamped so that they can be readily matched and correlated with all other records of the transaction. The photographs and video recordings shall be made available to the Police Department upon request.
- (d) Subsection (c) shall not apply to businesses that did not have two hundred (200) reportable transactions in the past calendar year. However, any such secondhand dealer must follow the daily reporting procedure for each reportable transaction by submitting a transaction form approved by the Police Department to the department on the business day following the date of the reportable transaction.
- (e) Receipt Required. Every secondhand dealer must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for one (1) year. The receipt must include at least the following information:
1. The name, address, and telephone number of the licensed business.

2. The date and time the item was received by the secondhand dealer.
 3. Whether the item was pawned or sold, or the nature of the transaction.
 4. An accurate description of each item received, 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 audiotapes, compact discs, laser discs, records, videotapes, digital video discs or other similar audio or audio visual recording media need not be described.
 5. The signature or unique identifier of the secondhand dealer or employee that conducted the transaction.
 6. The amount advanced or paid.
 7. If a pawn transaction, the monthly and annual interest rates, including all pawn fees and charges.
 8. If a pawn transaction, the last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
 9. The full name, residence address, residence telephone number, and date of birth of the pledger or seller.
 10. The identification number from the seller's identification, and the state, Canadian province or nation of issue.
 11. The signature of the pledger or seller.
- (f) Label Required. Secondhand dealers must attach a label to every item at the time it is pawned, purchased, or received in inventory from any reportable transaction except as provided herein. Permanently recorded on this label must be the number or name that identifies the transaction in the dealership's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the Police Department, whichever is applicable. Labels shall not be reused. Labels are not required for items defined in "Articles," Paragraph 16. of Subsection (3) entitled "Definitions."
- (eg) Transactions with Minors. No purchase, receipt or exchange of any secondhand article, secondhand textbook, or jewelry shall be made from any person under the age of ~~seventeen (17)~~ 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.
- (h) Intoxicated Sellers. No secondhand dealer may receive any goods from a person of unsound mind or an intoxicated or impaired person.
- (i) Serial Number Required. No secondhand dealer may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.
- (j) Seller Ownership. No person may pawn, pledge, sell, consign, leave, or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave, or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any secondhand dealer.

- (k) Seller Identification. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any secondhand dealer shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-date address of residence or telephone number, nor present a false or altered identification or the identification of another to any secondhand dealer.
- (dl) Holding Period.
1. Except as provided in Paragraph 56., 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 thirty (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.
 2. Except as provided in Paragraph 56., any secondhand article purchased or received by a secondhand article dealer shall be kept on the dealer's premises or other place for safekeeping for not less than ten (10) days after the date of purchase or receipt.
 3. Except as provided in Paragraph 56., 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 fifteen (15) days after the date of purchase or receipt.
 4. Except as provided in paragraph 6, any item purchased by a precious metals dealer shall be kept on the dealer's premises or other place of safekeeping for not less than fifteen (15) days after the date of purchase or receipt.
 45. During the period set forth in Paragraphs 1., 2., ~~or 3.~~ or 4., the secondhand article or jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer, precious metal dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or jewelry during this period. Within twenty-four (24) hours after a written request of a law enforcement officer 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 pawnbroker or other 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.
 6. At all times during the terms of the license, the secondhand dealer shall allow law enforcement officials to enter the premises where the business is conducted, including all off-site storage facilities, during normal business hours, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this section and other applicable laws.
 57. Paragraphs 1. to 4. do not apply to the following:
 - a. A secondhand article consigned to a pawnbroker or other secondhand dealer;
 - b. A coin of the United States, any gold or silver coin or gold or silver bullion.

- c. An audio tape, compact disc, laser disc, digital video disc, record, video tape or other similar audio or audio-visual recording device media.
 - d. A textbook.
 - 8. If a secondhand article dealer is required to submit an electronic report under Sec. 9.24(7)(c) concerning an article consisting of a computer or video game purchased or received by the secondhand article dealer, the computer or video game shall be kept on the secondhand article dealer's premises or other place for safe keeping for not less than seven (7) days after the report is submitted.
- (m) Redemption Period. Any person pledging, pawning or depositing any item for security shall have a minimum of thirty (30) days from the date of that transaction to redeem the item before it may be forfeited and sold. During the thirty- (30) day holding period, items shall not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the Police Department. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with Subsection (b).
- (n) Police Order to Hold Property.
 - 1. Investigative Hold. Whenever a law enforcement officer from any agency notifies a secondhand dealer not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within seventy-two (72) hours and will remain in effect for a reasonable length of time that the law enforcement officer considers necessary to identify it, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to sub. 2., whichever comes first.
 - 2. Order to Confiscate.
 - a. If an item is identified as stolen or evidence in a criminal case, the Police Department may physically confiscate and remove it from the shop, pursuant to a written order from the Police Department.
 - b. When an item is confiscated, the person doing so shall provide identification upon request of the secondhand dealer, and shall provide the secondhand dealer with the name and phone number of the confiscating officer and the case number related to the confiscation.
 - c. When an order to confiscate is no longer necessary, the Police Department shall so notify the secondhand dealer.
- (o) Notwithstanding Sec. 9.24(7)(c)7. or Sec. 9.24(7)(f) , if the Police Department finds it is in the interest of the public safety or welfare, the Department may establish rules defining labeling and photographing requirements for items that are part of a collection of coins which would permit the labeling or photographing of the coins in the collection as a group or groups of coins.
- (8) Textbooks. For each transaction for the purchase, receipt or exchange of one or more textbooks by a secondhand textbook dealer, a secondhand textbook dealer shall require the customer to provide government-issued photo identification, and

complete and sign, in ink, a form approved by the Madison Police Department. The form shall require, among other things, that each individual textbook be listed by title and author, by international standard book number (ISBN) or by any other information adequate to identify each textbook included in the transaction. Should the secondhand textbook dealer include the necessary information on a receipt of the transaction, a copy of the receipt attached to the form shall satisfy this ordinance. Secondhand textbook dealers need not forward a completed copy of the form to the Madison Police Department, but shall maintain the records for a six- (6) month time period and shall make the records available upon demand of the police.

(79) Secondhand Article Dealer Mall or Flea Market.

- (a) 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:
1. Each secondhand article dealer occupies a separate sales location and identifies herself or himself to the public as a separate secondhand dealer.
 2. 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.
 3. All sales are completed at a central location under the control of the secondhand article dealer mall or flea-market license holder, who maintains a record of all sales.
- (b) The secondhand article dealer license holder and each secondhand article dealer operating upon the premises or land shall comply with subsection (6).

(810) 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, secondhand textbook dealer license, pawnbroker license, **precious metal dealer 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 Public Safety Review Committee, after notice and hearing in accordance with the procedures in Sec. 9.49(6)(b), for any violation of Sec. 9.24; for any violations of any other Madison General 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. Stat. §§ 943.34, 948.62 or 948.63.

The decision of the Public Safety Review Committee shall be a final determination and shall be subject to review in court as may be provided by law. Any person aggrieved by the decision may seek review thereof within thirty (30) days after the date of the final determination by said board.

(911) Penalty.

- (a) Upon conviction for a first offense under this section, a person shall forfeit not less than fifty dollars (\$50) nor more than five thousand dollars (\$5,000).
- (b) Upon conviction for a second or subsequent offense under this section, a person shall forfeit not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000).

(12) Severability. Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid such decision shall not affect the validity of the ordinance as a whole or any part other than the part so declared invalid.

(13) This ordinance shall become effective on February 1, 2012.

(14) Sunset – License Fee Increases. The license fee increases provided in Sec. 9.24(4)(b) effective on February 1, 2012, shall expire on June 30, 2013, and revert to their previous amounts unless said increases are extended by the Common Council prior to the expiration date.”

2. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u> **	<u>Deposit*</u>
Secondhand dealer license required.	9.24(4 2)	\$150
<u>Failure of license holder from other municipality to comply with requirements.</u>	<u>9.24(2)(c)</u>	<u>\$500</u>
Fail to obtain proper identification for secondhand transaction.	9.24(6 7)(a)	\$150
Fail to maintain/forward/retain <u>Property Transaction Record, when required. record reportable transactions.</u>	9.24(6 7)(b)4-	\$150
<u>Failure to report reportable transactions.</u>	<u>9.24(7)(c)</u>	<u>\$150</u>
Fail to maintain/forward/retain Audio/Visual Recording Device Transaction Record for transactions of \$20 or more.	9.24(6)(b)2-	\$150
Failure of secondhand dealer to maintain written inventory of off-premises sale.	9.24(6)(b)3-	\$150
No purchase, receipt or exchange of secondhand article with a person under the age of 18 (unless accompanied by parent/guardian).	9.24(6 7)(e g)	\$150
<u>Serial number required.</u>	<u>9.24(7)(i)</u>	<u>\$150</u>
<u>Seller must own property sold or pawned.</u>	<u>9.24(7)(j)</u>	<u>\$150</u>
<u>Failure of seller to provide proper identification.</u>	<u>9.24(7)(k)</u>	<u>\$150</u>
Failure of pawnbroker to hold item for 30 days after transaction.	9.24(6 7)(d l)1.	\$150
Failure of secondhand dealer to hold item for 10 days after transaction (does not apply to transactions of Audio/Visual Recording Devices).	9.24(6 7)(d l)2.	\$150
Failure of secondhand jewelry dealer to hold secondhand jewelry item for 15 days after transaction.	9.24(6 7)(d l)3.	\$150”

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.