

CITY OF MADISON, WISCONSIN

A SUBSTITUTE
ORDINANCE

PRESENTED
REFERRED

June 19, 2012
PSRC

Amending Sections 9.24 (2)(d), (3), (4)(c), (7)(b), (7)(c)7., and (2)(a) of the Madison General Ordinances to clarify definitions and recordkeeping requirements for secondhand dealers.

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DRAFTER'S ANALYSIS: The Common Council adopted ORD-11-00171 on December 13, 2011, which made multiple changes to the City's secondhand dealers' ordinance. This proposal creates cross references to clarify that consignment transactions are secondhand sales, as provided in the existing definition of "Reportable Transactions." It states that recordkeeping for precious metals is the same as for jewelry and other articles. The proposal clarifies that a holder of a secondhand license issued by the City of Madison may occasionally operate from a temporary location, but that all recordkeeping and other ordinance requirements apply to such an operation. The proposal creates a definition of "precious metal" using language formerly contained in the definition of "precious metal dealer."

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

1. Subdivision (d) of Subsection (2) entitled "License Required" of Section 9.24 entitled "Licensing of Secondhand Dealers" of the Madison General Ordinances is amended to read as follows:

- "(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. A precious metal dealer includes a person who is engaged in the business of selling or purchasing precious metal from a temporary location in the City of Madison and such person shall obtain a precious metal 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.
- ~~34.~~ 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

Approved as to form:

communication address, through which appointments are made for such transactions to be conducted within the City of Madison.”

2. Subsection (3) entitled “Definitions” of Section 9.24 entitled “Licensing of Secondhand Dealers” of the Madison General Ordinances is amended by amending therein the following:

“Precious metal means 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.

Precious metal dealer means any person who engages in any transaction of purchasing, selling, receiving or exchanging secondhand jewelry ~~or precious metal, 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.

Secondhand article dealer means any person who engages in the business of purchasing, selling, including consignment 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(1), 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 jewelry dealer means any person who engages in the business of any transaction consisting of purchasing, selling, including consignment 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.”

3. Subdivision (c) of Subsection (4) entitled “Application and Fees” of Section 9.24 entitled “Licensing of Secondhand Dealers” of the Madison General Ordinances is amended to read as follows:

“(c) A separate license shall be obtained for each individual premises from which the business is operated except that the holder of a secondhand license issued by the City of Madison may occasionally operate from a temporary location in the City of Madison, provided that the holder of the license shall comply with all requirements of this Sec. 9.24 and shall store all items purchased and all records generated from such transactions at the holder’s permanent licensed premise.”

4. Introductory paragraph of Subdivision (b) entitled “Records” of Subsection (7) entitled “Restrictions and Requirements” of Section 9.24 entitled “Licensing of Secondhand Dealers” of the Madison General Ordinances is amended to read as follows:

“(b) Records. It shall be the duty of every license holder to keep a record of all articles, precious metals, 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:”

5. Paragraph 7. entitled “Photographs” of Subdivision (c) entitled “Daily Reports to Police” of Subsection (7) entitled “Restrictions and Requirements” of Section 9.24 entitled “Licensing of Secondhand Dealers” of the Madison General Ordinances is amended to read as follows:

“7. Photographs. Each pawn, secondhand articles 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. Items defined in Sec. 9.24(3), “Article,” Line 16, are exempt from this photograph requirement.”

6. Subdivision (a) of Subsection (2) entitled “License Required” of Section 9.24 entitled “Licensing of Secondhand Dealers” of the Madison General Ordinances is amended to read as follows:

“(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.”