

SECTION 712 PAWN BROKERS AND SECONDHAND GOODS DEALERS

Purpose. The County of Mille Lacs finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The County of Mille Lacs also finds that consumer protection regulation is warranted in transaction involving pawnbrokers. The County of Mille Lacs further finds that the pawn industry has outgrown the County's current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this ordinance amendment is to prevent pawn businesses from being used as facilities for the commission of crimes, and to assure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety, and general welfare of the citizens of the city. To help law enforcement better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this chapter also implements and establishes the required use of the automated pawn system (APS).

712.1 State Statutes Adopted.

Pawnbrokers shall be regulated by this ordinance which adopts Minnesota Statutes, Chapter 325J (1996), and any successor or amending statute by reference as part of this ordinance.

712.2 Definitions.

In addition to Chapter 325J and any successor or amending statute definitions, the following words shall have the following meanings when used in this section.

County. The County of Mille Lacs

Licensed Premises. The specific building which has been licensed pursuant to this chapter. "Licensed Premises" including any out buildings, attached or detached to the licenses premises, which has been included in the license.

Receive. To purchase, accept for sale on consignment or take in pawn any second hand goods.

Pawnbroker. Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

Reportable transaction. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, or an item is confiscated by law enforcement, is reportable except:

- (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.

Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Billable transaction. Every reportable transaction conducted by a pawnbroker is a billable transaction except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.

Secondhand Goods Dealer. Any person, partnership, firm or corporation whose regular business includes selling or receiving any tangible personal properties, excluding motor vehicles, previously used, rented or leased. The term secondhand goods dealer shall include pawnbrokers.

Exemptions. Secondhand Goods Dealer shall not apply to or include the following:

1. The sale of secondhand goods where all of the following are present.
 - (a)The sale is held on property occupied as a dwelling by the seller or owned, rented or leased by a charitable or political organization;
 - (b)The items offered for sale are owned by the occupant;
 - (c)That no sale exceeds a period of ninety-six (96) consecutive hours;
 - (d)That no more than four (4) sales are held in any twelve month period;
 - (e)That none of the items offered for sale shall have been purchased for resale or received on consignment for purpose of resale.
2. The sale of secondhand books or magazines.
3. The sale of goods at an auction held by an auctioneer.
4. The business of buying or selling only those secondhand goods taken as part or full payment for new goods and where such business is incident to and not the primary business of a person.
5. A bulk sale of property from a merchant, manufacturer or wholesaler having an established place of business or of goods sold at open sale from bankrupt stock.
6. Goods sold at a farmer's market.

712.3 License fees

(A). The annual license fees for licenses issued under this chapter shall be set by the Mille Lacs County Board of Commissioners by public hearing.

(B). The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the County Board pursuant to public hearing on the same.

(C). Billable transaction fees shall be billed monthly and are due and payable within thirty (30) days. Failure to do so is a violation of this chapter.

712.4 Application required

(A). Contents. An application form provided by the Mille Lacs County Sheriff's Department must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

- (1). If the applicant is a natural person:
 - (a). The name, place and date of birth, street resident address, and phone number of applicant.
 - (b). Whether the applicant is a citizen of the United States or resident alien.
 - (c). Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.
 - (d). The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by Minnesota Statutes, Section 333.01.
 - (e). The street address at which the applicant has lived during the preceding five (5) years.
 - (f). The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the proceeding five (5) years.

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- (g). Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.
- (h). The physical description of the applicant.
- (i). Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two (2) years prior to application.
- (j). If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a. through h. of subdivision (1) of this section.
- (2). If the applicant is a partnership:
- (a). The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subdivision (1) of this section.
- (b). The name(s) of the managing partner(s) and the interest of each partner in the licensed business.
- (c). A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate must be attached to the application.
- (d). A true copy of the federal and state tax returns for partnership for the two (2) years prior to application.
- (e). If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in a. through h. of subdivision (1) of this section.
- (3). If the applicant is a corporation or other organization:
- (a). The name of the corporation or business form, and if incorporated, the state of incorporation.
- (b). A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, must be attached.
- (c). The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in a. through h. of subdivision (1) of this section.
- (d). A list of all persons who control or own an interest in excess of five (5) percent in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subdivision (1) above. This subdivision (d), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.
- (4). For all applicants:
- (a). Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any other governmental unit.
- (b). Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit.
- (c). The location of the business premises.
- (d). If the applicant does not own the business premises, a true and complete copy of the executed lease.
- (e). The legal description of the premises to be licensed.
- (f). Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed.
- (g). Such other information as the Sheriff's Office and Zoning Administrator may require.

(B). New Manager. When a licensee places a manager in charge of a business, or if the named manager(s) in charge of a licensed business changes, the licensee must complete and submit the appropriate application within fourteen (14) days. The application must include all appropriate information required in this section.

(1). Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this chapter

The fee shall be set according to the County Board for the same.

(C). Application execution. All applications for a license under this chapter must be signed and sworn to under oath or affirmation by the applicant. If the application is that of a natural person, it must be signed and sworn to by such person; if that of a corporation, by an officer thereof; if that of a partnership, by one of the general partners; and if that of an unincorporated association, by the manager or managing officer thereof.

(D). Investigation. The Sheriff's Office must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the Sheriff's Office such evidence as the Sheriff may reasonably require in support of the statements set forth in the application.

(E). Public hearing. Public hearings for the conditional use permit shall be held before the Mille Lacs County Planning Commission at its regular meeting time and place.

(F). Persons ineligible for a license. No licenses under this chapter will be issued to an applicant who is a natural person, a partnership if such applicant has any general partner or managing partner, a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business to be licensed, if the applicant:

- (1). Is a minor at the time that the application is filed; or,
- (2). Has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota Statutes, Section 364.03, Subd. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by Minnesota Statutes, Section 364.03, Subd. 3.

712.5 Bond Required.

Before a license will be issued, every applicant must submit a five thousand dollar (\$5,000.00) bond in the form approved by the Mille Lacs County Sheriff or his/her designee. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon thirty (30) days written notice to the County, which shall be served upon the Mille Lacs County Sheriff.

712.6 Records Required

At the time of any reportable transaction other than renewals, extensions or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the police department:

- (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.
- (2). The purchase price, amount of money loaned upon, or pledged therefore.
- (3). 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 licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

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- (5). Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.
- (6). The identification number and state of issue from any of the following forms of identification of the seller:
- (a). Current valid Minnesota driver's license.
 - (b). Current valid Minnesota identification card.
 - (c). Current valid photo identification card issued by another state or province of Canada.
- (7). The signature of the person identified in the transaction.
- (8). Effective sixty (60) days from the date of notification by the Sheriff's Office of acceptable video standards the licensee must also take a color digital photograph or color video recording of:
- (a). Each customer involved in a billable transaction, and,
 - (b). Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed. If a digital photograph is taken, it must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the Sheriff's Department, upon request. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three (3) months.
- (9). Digitized photographs. Effective sixty (60) days from the date of notification by the Sheriff's department licensees must fulfill the color photograph requirements in section (*RECORDS REQUIRED*) (8) by submitting them as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Notwithstanding the digital images may be captured from required video recordings, this provision does not alter or amend the requirements in subdivision (8).
- (10). Renewals, extensions and redemptions. For renewals, extensions and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
- (11). Inspection of records. The records must at all reasonable times be open to inspection by the Sheriff's department or Zoning Office. Data entries shall be retained for at least three (3) years from the date of transaction. Entries of required digital images shall be retained a minimum of ninety (90) days.

712.7 Daily reports to police.

- (A). Effective no later than sixty (60) days after the police department provides licensees with the current version of the Automated Pawn System Interchange File Specification, licensees must submit every reportable transaction to the Sheriff's department daily in the following manner:
- (1). Licensees must provide to the Sheriff's department all reportable transaction information by transferring it from their computer to the Automated Pawn System via modem using the current version of the Automated Pawn System Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority. Any transaction that does not meet the Automated Pawn System Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the Sheriff's department daily.

(B). Billable transaction fees. Licensees will be charged for each billable transaction reported to the Sheriff's department.

- (1). If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Sheriff's department, upon request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon the next business day;
- (2). If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed in section (*DAILY REPORTS TO POLICE b. 1.*) and must be charged a fifty dollar (\$50.00) reporting failure penalty, daily, until the error is corrected; or
- (3). If the problem is determined to be outside the licensee's system, the licensee must continue to provide the required reports in (*DAILY REPORTS TO POLICE b. 1.*) and resubmit all such transactions via modem when the error is corrected.
- (4). If a licensee is unable to capture, digitize or transmit the photographs required in (*RECORDS REQUIRED*) (9), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request.
- (5). Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.
- (6). (*DAILY REPORTS TO POLICE*) (b) (1) through (3) notwithstanding, the Sheriff's department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

712.8 Police Entry.

Members of the Mille Lacs County Sheriff's Department shall have the right to enter the licensed premises at all reasonable times for purposes of verifying that the property listed on the records required by Section 712.6 are actually at the licensed premises.

Each licensee shall supply to the Sheriff every day, a complete, legible and correct copy of the records required by this Section for all transactions which occurred on the previous day. The records required herein shall be kept at the licensee's place of business for three (3) years, and shall be available for police inspection at any reasonable time.

712.9 Inspection of items.

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter or other applicable laws.

712.10 Police order to hold property.

(A). Investigative hold. Whenever a law enforcement official from any agency notifies a licensee 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 fifteen (15) days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to [section] (*POLICE ORDER TO HOLD PROPERTY*) (b), whichever comes first.

(B). Order to hold. Whenever the Sheriff, or the Sheriff's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the Sheriff or the Sheriff's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the Sheriff or the Sheriff's designee determines the hold is still necessary and notifies the licensee in writing.

(C). Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the Sheriff or Sheriff's designee may:

- (1). Physically confiscate and remove it from the shop, pursuant to a written order from the Sheriff or the Sheriff's designee, or
- (2). Place the item on hold or extend the hold as provided in (*POLICE ORDER TO HOLD PROPERTY*) (b), and leave it in the shop.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Sheriff, or Sheriff's designee shall so notify the licensee.

712.11 Receipt required.

Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three (3) years. 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 licensee.
- (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.
- (5). The signature or unique identifier of the licensee or employee that conducted the transaction.
- (6). The amount advanced or paid.
- (7). The monthly and annual interest rates, including all pawn fees and charges.
- (8). The last regular day of business by which the item must be redeemed by the pledgor without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
- (9). The full name, current residence address, current residence telephone number, and date of birth of the pledgor or seller.
- (10). The identification number and state of issue from any of the following forms of identification of the seller:
 - (a). Current valid Minnesota driver's license.
 - (b). Current valid Minnesota identification card.
 - (c). Current valid photo driver's license or identification card issued by another state or province of Canada.
- (11). Description of the pledgor or seller including approximate sex, height, weight, race, color of eyes and color of hair.
- (12). The signature of the pledgor or seller. All printed statements as required by state statute 325J.04 subdivision 2, or any other applicable statutes.

712.12 Label required.

Licensees must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the number or name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the item as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

712.13 Prohibited Transactions.

No Pawnbroker shall purchase or receive on deposit or pledge anything of value as security for a loan of money from any person, male or female, under lawful age, nor knowingly from intoxicated persons or those of unsound mind.

No Secondhand Goods dealer shall purchase anything of value from any person, male or female, under lawful age, nor knowingly from intoxicated persons or those of unsound mind.

712.14 Prohibited acts.

- (A). No person under the age of eighteen (18) years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of eighteen (18) years.
- (B). No licensee may receive any goods from a person of unsound mind or an intoxicated person.
- (C). No licensee may receive any goods, unless the seller presents identification in the form of a valid driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state or providence of residency of the person from whom the item was received.
- (D). No licensee may receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.
- (E). 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 licensee.
- (F). No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any licensee 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 licensee.

712.15 Denial, suspension or revocation.

Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:

- (1). The proposed use does not comply with the any applicable zoning code.
- (2). The applicant or licensee has failed to comply with one or more provisions of this chapter.
- (3). The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.
- (4). Fraud, misrepresentation or bribery in securing or renewing a license.
- (5). Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.
- (6). Violation within the preceding five (5) years, of any law relating to theft, possession of stolen property, sale of a controlled substance, or felony fraud (8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

712.16 Business at only one place.

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license by the person/entity licensed. However, upon written request, the Sheriff may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with (*INSPECTION OF ITEMS*). All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the state city code. The licensee must either own the building in which the business is conducted, and any approved off-site storage facility, or have a lease on the business premise that extends for more than six (6) months.

712.17 Penalty.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Seven Hundred Dollars (\$700.00) or imprisonment for not more than Ninety (90) days or both.