



ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REENACTING CHAPTER 18, ARTICLE III, DIVISION 6 (PAWNBROKERS, SECONDHAND DEALERS, SCRAP DEALERS, AND DEALERS IN PRECIOUS METALS AND PRECIOUS GEMS) CODE OF ORDINANCES, CITY OF MINOT, NORTH DAKOTA TO ALLOW THE CITY COUNCIL TO REGULATE PAWNBROKERS, SECONDHAND DEALERS, SCRAP DEALERS IN PRECIOUS METALS AND PRECIOUS GEMS, IN ORDER TO DETER ATTEMPTS TO DISPOSE OF STOLEN PROPERTY, TO AID IN THE APPREHENSION OF THEIVES OR RECEIVERS OF STOLEN PROPERTY, AND TO PROTECT THE GENERAL PUBLIC.

WHEREAS, the City of Minot is a political subdivision lawfully recognized in the state of North Dakota as a home rule city and possessing municipal powers and authority pursuant to its home rule charter and the provision of North Dakota Century Code (NDCC) § 40-05.1, as well as statutory provisions codified in NDCC 40-05-01; and

WHEREAS, the City of Minot has the authority, through its home rule charter, to adopt, amend, and repeal ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof, including the power to fix fees in the exercise of its governmental police powers; and

WHEREAS, the City Council desires to amend the existing Chapter 18, Article III, Division 6, Code of Ordinances, to create one license for each occupation, update license fees, modernize, and remove outdated language and bring the existing ordinance into alignment with current practices; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINOT
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§1 CHAPTER 18, ARTICLE III, DIVISION 6 (PAWNBROKERS, SECONDHAND DEALERS, SCRAP DEALERS, AND DEALERS IN PRECIOUS METALS AND PRECIOUS GEMS) CODE OF ORDINANCES, CITY OF MINOT, NORTH DAKOTA, is hereby repealed and reenacted as follows:

DIVISION 6. PAWNBROKERS, SECONDHAND DEALERS, SCRAP DEALERS, AND DEALERS IN PRECIOUS METALS AND PRECIOUS GEMS

Sec. 18-115. Purpose.

The purpose of this division is to regulate pawnbrokers, secondhand dealers, scrap dealers, and dealers in precious metals and precious gems, in order to deter attempts to dispose of stolen property, to aid in the apprehension of thieves or receivers of stolen property, and to protect the general public.

Additionally, in achieving this purpose of helping the Minot Police Department to better regulate current and future pawn businesses and other dealers, and to improve identification

of criminal activities through the timely collection and sharing of transaction information, this chapter also implements and establishes the required use of the LEADSONLINE system.

(Ord. No. 4231, § 1)

Sec. 18-116. Definitions; excluded transactions.

(a) For the purposes of this division, the following definitions are controlling:

Acquisition for resale includes both the purchase of goods and the receipt of the goods on consignment.

Chief of police includes their designee.

City Clerk includes their designee.

Dealer in precious metals or precious gems means any person who engages in the business of acquiring for resale any precious metals or precious gems which were previously sold at retail, or coins, other than gold coins and numismatic coins.

Disqualified person means a person who or which:

- (1) Has been convicted in North Dakota of a criminal offense defined in (or which makes reference to) Chapter 12.1-22, Chapter 12.1-23, or Chapter 12.1-24 of the North Dakota Century Code (which chapters pertain to robbery, breaking and entering, various forms of theft, forgery, and counterfeiting).
- (2) Has been convicted in a jurisdiction other than North Dakota of a criminal offense which is analogous to one of those referenced in subsection (1) of this definition.
- (3) Has been convicted of two (2) violations of this division within a period of thirty-six (36) consecutive months. The conviction of more than one (1) count of an offense in one (1) prosecution shall be deemed to be a conviction of two (2) violations of this division.

Licensee means all pawnbrokers, secondhand dealers, scrap dealers, or dealers in precious metals and precious gems_which are required to be licensed by this chapter.

Pawnbroker means any person, who loans money on deposit or pledge of tangible personal property or by the purchase of the property on the expressed or implied agreement or condition that the property will be sold back again at a stipulated price.

Regulated transaction means any and all purchases, loans, pawns, trades, or consignments made by a licensee.

Reportable transaction means every transaction conducted by a licensee in which merchandise is received through a pawn, purchase, consignment or trade, or for which a unique transaction number or identifier is generated by their point-of-sale software, or any other type of transaction recording method. Reportable transactions include, but are not limited to:

- (1) Any transactions conducted through, or on behalf of, a licensed pawnbroker;
- (2) Any transactions involving property with a trademark, identification number, serial number, model number, brand name or other identifying mark;
- (3) Any transaction in which a weapon was pawned or purchased for resale;

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- (4) Any transaction in which an electronic item was pawned or purchased for resale;
 - (5) Any transaction in which jewelry or precious metal was pawned or purchased for resale.

Secondhand dealer means any person who engages in the business of acquiring for resale consumer goods, which consumer goods previously were sold at retail in a prior transaction, and to which a transaction relating to the consumer goods would be a reportable transaction as defined by this chapter.

Scrap dealer means any person who maintains a store, shop, or place of business where purchases are made of used metals, scrap iron, scrap batteries, rags, bottles, bones, or scrap of any kind, nature or description for the purpose of resale either at retail or otherwise.

(b) The following transactions are excluded from the scope of this division:

- (1) The trade-in of a used article as partial payment for a new article of greater value.
- (2) The acquisition for resale of used consumer goods for the purpose of reselling them at a casual and occasional sale conducted in the garage or on some other portion of the personal residential premises of the person receiving the goods, which premises must be zoned residential. A typical "garage sale" is contemplated herein.
- (3) The acquisition for resale of a used motor vehicle, which motor vehicle would be eligible for a registration under the laws of the State of North Dakota if it were in good repair, whether it is in fact registered or not.
- (4) The acquisition for resale of any goods by a nonprofit corporation or nonprofit association recognized as such by the Internal Revenue Service or by a bona fide fraternal or bona fide religious organization or association.
- (5) The acquisition for resale of goods if the resale of such goods is not to be made to persons who will be the ultimate consumers of the goods; in other words, wholesalers are excluded from this division when doing business as wholesalers.
- (6) The acquisition for resale of goods purchased from a decedent's estate, purchased at a public auction conducted by a licensed auctioneer, or acquired in a transaction subject to court supervision and approval.
- (7) The acquisition for resale of goods in which the purchaser initially solicits the sale or consignment from the seller at a coin show or antique show wherein the seller is displaying goods in conjunction with other collectors of the same types of goods.
- (8) The acquisition for resale of an ingot of precious metal, including but not limited to, gold, silver, platinum, which ingot bears a stamp or other marking indicating or reflecting:
 - a. The government, governmental agency, private corporation, or banking institution issuing or producing the ingot;
 - b. An indication of the quantity of metal contained in the ingot; and
 - c. The seal of the issuing party.
- (9) The acquisition for resale of coins, precious metals or precious gems and currency by any banking institution or like entity regulated by the state or federal government or both.

(10) The acquisition for resale of goods from a bona fide manufacturer or wholesaler of such goods.

(Ord. No. 4231, § 1; Ord. No. 4794; Ord. No. 4819, §§ 1, 2)

Sec. 18-117. License required; disqualification.

- (a) The applicability of any of the exemptions set forth in subsection (b) shall be an affirmative defense concerning which the defendant in a prosecution under this division shall have the burden of producing evidence and the burden of persuasion.
- (b) No person shall engage in the business of a pawnbroker or secondhand dealer, scrap dealer, or dealer of precious metals or precious gems, in the city without first obtaining a license from the city clerk. An application for license shall be made to the city clerk. To the extent applicable, the applicant under oath shall provide the following information:
 - (1) The applicant's full name, date of birth, residence, present and previous occupations, driver's license number and state of issuance thereof. If the applicant has multiple owners or multiple employees, the application shall contain also the above information for all owners and employees.
 - (2) The address of the place of business of the applicant and their mailing address.
 - (3) The type(s) of business being conducted.
 - (4) Such other information as the city clerk or the chief of police reasonably shall find necessary to affect the general purpose of this division.
- (c) No disqualified person shall be eligible for a license, nor shall a person be eligible for a license that employs or proposes to employ a disqualified person to assist in the conduct of the licensed activity.

(Ord. No. 4231, § 1)

Sec. 18-118. Investigation by chief of police.

Upon receipt by the city clerk of an application for a license as provided for herein, the chief of police shall cause an investigation to be made of the applicant and their employees, the results of which shall be certified to the city clerk.

(Ord. No. 4231, § 1)

Sec. 18-119. License fees; term.

- (a) The license fee for a license required by this division, shall be as follows:
 - (1) Five hundred dollars (\$500.00) for any first-time license or renewal.
 - (2) Fees shall not be prorated.
- (b) The term of any licenses issued under this division, shall be valid and effective until December 31 of the year for which the license applies.

(Ord. No. 4231, § 1)

Sec. 18-120. License transferability, posting and procedure for suspension or revocation of license.

- (a) Any license issued under this division shall not be transferable.
- (b) Any licensee under this division shall cause a certificate of the license to be displayed at all times in a conspicuous place in the place of business described in the application. Should any licensee under this division operate more than one place of business under the same license, a certified copy of the certificate of license shall be displayed in each additional place of business.
- (c) The city manager may revoke or suspend any license issued hereunder for failure to comply with state or federal law or municipal ordinances or any regulation promulgated pursuant to the aforesaid, or because circumstances occur whereunder the licensee, viewed as an applicant and not a licensee, would be ineligible for a license under subsection 18-117(b). The licensee shall be given notice and opportunity to be heard at a hearing prior to the revocation or suspension of his license; the notice is to be given not less than five (5) days prior to such hearing. The notice of hearing shall set forth the grounds and reasons for the contemplated revocation or suspension of the license and shall further state the time and location of the hearing thereon. Upon completion of the hearing, the city manager may either dismiss the suspension or revocation request, order the suspension of the license for a period not to exceed ninety (90) days, or revoke the license.

(Ord. No. 4231, § 1)

Sec. 18-121. Bond.

The licensee shall furnish a good and sufficient bond, with a surety to be approved by the city clerk, in the sum of five thousand dollars (\$5,000.00), conditioned on the faithful observance of this division and conditioned on the safekeeping or return of all articles held in pledge. This bond shall be in addition to any bonds required by the State of North Dakota or Ward County.

(Ord. No. 4231, § 1)

Sec. 18-122. Records and accurate reporting required.

- (a) 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 chief of police. Such record shall specifically include:
 - (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) A digital photograph of any item which is pawned or purchased as well as a digital photograph of the person pawning the item to be attached to the LEADSONLINE transaction record.
 - (3) The purchase price, amount of money loaned upon, or pledged.

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- (4) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
 - (5) 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.
 - (6) Full name, current residence address and phone 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.
 - (7) The identification number and state of issue of a current government photo driver's license or state photo identification card.
 - (8) The signature of the person identified in the transaction.
 - (9) Renewals, extensions, and redemptions. For renewals, extensions and redemption, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
 - (10) Inspection of records. Transaction records must at all reasonable times be open to inspection by the Minot Police Department during the licensee's business hours. Data entries shall be retained for at least three (3) years from the date of the transaction.
- (b) Daily reports to the Minot Police Department. Licensees must submit every reportable transaction to the Minot Police Department daily in the following manner:
- (1) Licensees must provide to the Minot Police Department all information required in section 18-22 [18-122], sections 1—7 [(a)(1)—(7)], and other required information, by transferring it from their computer to the LEADSONLINE system. All required records must be transmitted completely and accurately each day in accordance with the standards and procedures established by the issuing authority. If a licensee is unable to successfully transfer the required information to LEADSONLINE, the licensee must provide the Minot Police Department printed copies of all reportable transactions, by 12:00 [p.m.] the next business day. The licensee must make all reasonable efforts to correct the problem as soon as possible.
 - (2) 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 since the problem existed.
 - (3) No person shall knowingly make or enter any false or unintelligible entry or record, or make any entry or record which he/she has reason to believe is untrue, in the entries or records required to be kept by this division.

(Ord. No. 4231, § 1)

Sec. 18-123. Pawn tickets; pawned property to be held for specified periods.

- (a) At the time of receiving a pledge and upon the subsequent renewal of a loan, a pawnbroker shall deliver to the pledge or his agent a pawn ticket, which pawn ticket shall be serially numbered, and which shall contain the following information:
- (1) The name and address of the pawnbroker;

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- (2) A generic description of the pledge, with such particular details of description noted whenever possible in order to distinguish the item from others;
 - (3) The date and time of transaction; and
 - (4) The amount, duration, and terms of the loan.
- (b) The pawnbroker may insert on the pawn ticket other terms, conditions, or items of information that are not inconsistent with the provisions of this division.
 - (c) The pawnbroker may not allow an item to be redeemed until the passage of three (3) working days, excluding Saturdays, Sundays, and holidays, following the day when the reporting required by subsection 18-122(b) is accomplished, except on a written release from the chief of police. For example, barring such release, an item pledged on a Thursday and reported to the city police department on the following Friday may not be redeemed until the next Thursday.
 - (d) Every item of any kind or description which is taken by a pawnbroker as a pledge and not redeemed shall be held by the pawnbroker for a minimum period of thirty (30) days before the pledge is foreclosed or enforced and the item offered for sale.
- (Ord. No. 4231, § 1)

Sec. 18-124. Holding period; exceptions.

Any licensee who shall acquire any goods, other than as a pledge, shall keep the goods in his possession until the passage of three (3) working days, excluding Saturdays, Sundays, and holidays, following the day when the reporting required by subsection 18-122(b) is accomplished, except on written release from the chief of police. Although the licensee is required to keep possession of the property for a specified period of time hereunder, he is free to sell the goods and to transfer whatever title he might have in the goods to the purchaser, provided that he does not surrender up possession of the goods during the required holding period. Goods, as used herein, refer to one (1) item or a group or set of related items collectively, as in a set of silverware.

(Ord. No. 4231, § 1)

Sec. 18-125. Unlawful transactions.

- (a) No licensee shall acquire property either as a pledge or for resale from a person under eighteen (18) years of age.
- (b) No licensee shall conceal, secrete, or destroy any article acquired by him as a pledge or for resale with the intent of preventing identification thereof by law enforcement authorities.
- (c) No licensee shall refuse, resist, or attempt to prevent any city police officer from examining the licensed premises and its contents during business hours for the purpose of discovering stolen property.

(Ord. No. 4231, § 1; Ord. No. 4794)

Sec. 18-126. Authority of the Minot City Police Department.

Notwithstanding the provisions of section 18-124, the chief of police may order an:

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- (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, whichever comes first.
- (b) *Order to hold.* Whenever the chief of police, or the chief'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 chief or the chief's designee. The order to hold shall expire ninety (90) days from the date it is placed unless the chief of police or the chief'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 chief or chief's designee may:
- (1) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or
 - (2) Place the item on hold or extend the hold as provided in subsection (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 chief of police, or chief's designee, shall so notify the licensee.

(Ord. No. 4231, § 1)

Sec. 18-127. Penalty.

Any person, firm or corporation violating the terms of this chapter, except as provided in subsection 18-116(b), shall upon conviction thereof, be guilty of a Class B misdemeanor, and punished by a fine not to exceed five hundred dollars (\$500.00) and imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment. (Ref. section 1-8)

(Ord. No. 4231, § 1)

§2 This ordinance shall become effective upon final passage and approval.

Passed and adopted this ____ day of _____, 2024.

ATTEST:

APPROVED:

Mikayla McWilliams, City Clerk

Thomas Ross, Mayor