

ORDINANCE NO. 12-O-0007

**AN ORDINANCE OF THE CITY OF WEST CHICAGO, DUPAGE COUNTY, ILLINOIS
AMENDING CHAPTER 9, CONCERNING LICENSES, PERMITS AND BUSINESS
REGULATIONS BY ADDING ARTICLE IV ENTITLED
“PAWNBROKERS AND PRECIOUS METALS DEALERS”**

WHEREAS, the City of West Chicago (the “City”) is a home rule unit of government, pursuant to Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City is expressly authorized to exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, stolen goods are frequently sold for cash at pawn shops, jewelry stores, and cash-for-gold stores; and

WHEREAS, the Police Department staff has reported that identifying and retrieving stolen goods from such businesses and identifying the persons who sold such stolen goods has proven to be a difficult and labor-intensive task; and

WHEREAS, the goals of deterrence of crime, apprehension of criminals, retrieval of stolen goods for return to the lawful owners, and maintenance of public order are served by an effective and efficient system of recording and reporting such sales; and

WHEREAS, a regional approach to address the sale of stolen goods will be more effective than a solely local approach; and

WHEREAS, the Police Department staff has further knowledge of a service called “LeadsOnline,” which service assists law enforcement agencies nationwide in solving a variety of crimes by maintaining a searchable electronic database of certain identifying information from the sale of second hand and scrap goods; and

WHEREAS, subscribing to LeadsOnline would give the Police Department access not only to such transactions within the City of West Chicago, but also to the transactions from any other participating business in the United States, including regional/national chain stores such as Best Buy, GameStop, Play N Trade, Cash America, Mister Money, Pawn America, EZPawn, Big Pawn, Fast Cash & Pawn, Monster Pawn, Pawn King, Midwest Gold Buyers, Disc Replay, Play it Again Sports, Guitar Center, JB Robinson Jewelers, Kay Jewelers, Jared Galleria of Jewelry, Treasure Hunters Road Show, and EBay; and

WHEREAS, reporting such transactions to LeadsOnline is already required by such other regional municipalities as Aurora, Berwyn, Blue Island, Bolingbrook, Burbank, Buffalo Grove, Calumet City, Chicago, Country Club Hills, Crystal Lake, Elmhurst, Evanston, Evergreen Park, Flossmoor, Forest Park, Franklin Park, Glencoe, Glenview, Hillside, Homewood, Lansing, Matteson, Melrose Park, Mokena, Mundelein, Naperville, Northbrook, Northlake, Oak Brook, Olympia Fields, Orland Park, Palos Hills, Park Forest, Park Ridge, Riverdale, Riverside, Riverwoods, Rockford, Schiller Park, South Holland, Vernon Hills, Wheeling, and Winnetka; and

WHEREAS, the Police Department staff recommends that all pawnbrokers and precious metals dealers operating within the City be required to report all transactions to LeadsOnline as specified by this Ordinance as a condition of being licensed to conduct such business in the City; and

WHEREAS, the City Council has determined that it is proper, necessary and in the best interest of the City to adopt this legislation regulating and licensing the business of pawnbrokers and precious metals dealers and requiring them to take the necessary steps to track property and merchandise that they receive with LeadsOnline to further the general welfare of the citizens of West Chicago.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of West Chicago, DuPage County, Illinois, as follows:

Section 1. That the foregoing recitals are adopted as the findings of the corporate authority of the City as if fully recited herein.

Section 2. That Chapter 9 of the Code of Ordinances of the City of West Chicago, entitled “Licenses, Permits and Business Regulations”, is hereby amended by adding thereto Article IV, entitled, “Pawnbrokers and Precious Metals Dealers”, as follows:

“ARTICLE IV: PAWNBROKERS AND PRECIOUS METALS DEALERS

Sec. 9-51. Definitions.

As used in this article, the following words or phrases shall have the following meaning:

pawnbroker: Every owner, operator or employee engaged in the business of receiving property in pledge or as security for money or other things advanced to the pawnor or pledger shall be deemed to be a pawnbroker.

precious metals dealer: Every owner, operator or employee engaged in the business of the purchase, sale, trade or barter of jewelry and valuable or precious metals, as defined in this article, shall be deemed a precious metals dealer, whether such dealer operates from a fixed storefront business, or is conducting business on a temporary, short-term basis from a non-fixed location.

LeadsOnline: A computerized records management system designed to record transactions between pawnshops and precious metals dealers and their customers and transmit said transactions electronically to law enforcement agencies.

licensee: The owner, operator, and all employees of a business licensed under this article.

precious metals: Articles consisting primarily of the elements gold (chemical symbol Au), silver (chemical symbol Ag), platinum (chemical symbol Pt) or palladium (chemical symbol Pd), but not including articles merely plated with these metals or articles similar in color to these metals but not actually consisting of them.

individually identifiable articles: Articles that are individually identifiable by a serial number, or other applied numbers, letters, characters or markings, or other unique features that serve to distinguish it from any other similar article and can be used to establish ownership of the article.

Sec. 9-52. Exemptions.

This article shall not apply to businesses or charitable organizations that accept donated goods for resale and to precious metal dealers that are purchasing precious metals solely at home sales.

Sec. 9-53. Electronic reporting of transactions.

The city shall enter into a contract for service and maintain its contract for service with LeadsOnline, or a similar entity as designated by the chief of police, to enhance its investigative services to protect pawnbrokers and precious metals dealers and members of the general public. In the event of a change to its electronic reporting system, the city will notify all impacted licensees of the change within a reasonable time prior to such change.

Every pawnbroker or precious metals dealer shall operate and maintain a computer system with Internet access and photographic or video capability sufficient for the electronic reporting requirements described in this article. Any failure or malfunction of such equipment on the part of the licensee shall not exempt the licensee from the recording/reporting requirements. The licensee shall immediately notify the designated individual in the police department of any such failure or malfunction, and shall have such resolved as soon as practicable. Failure by the licensee to resolve any failure or malfunction of equipment in a reasonable amount of time will lead to license suspension or revocation proceedings defined in this article.

Sec. 9-54. Record of transactions.

Every pawnbroker or precious metals dealer doing business in the city, shall report/upload to LeadsOnline, the below listed information for each and every transaction conducted on a daily basis, by the end of each business day. All information shall be recorded in the English language.

A transaction shall consist of all articles brought into a pawnbroker or precious metals dealer for sale, barter, trade, pledge or pawn by a customer and includes the sale of articles by a pawnbroker or precious metals dealer to another customer. Articles brought in to a pawnbroker or precious metals dealer for sale, barter, trade, pledge or pawn at different times on the same date by the same customer shall be considered as separate transactions. Each transaction is to be recorded individually.

During each transaction, the pawnbroker or precious metals dealer shall require identification to be shown to him by each customer. The identification must be a driver's license or identification card issued by a governmental entity and must include a photograph of the customer. If, however, a customer does not have a driver's license or a state identification card issued by a governmental entity with a photograph, then a pawnbroker or precious metals dealer must require that two forms of identification be shown; at least one of these two forms of identification must include the customer's home address. These alternate forms of identification may include, but are not limited to, any of the following: social security card, utility bill, employee or student identification card or credit card statement. In addition, if the customer does not have an identification issued by a governmental entity containing a photograph of the person being identified, the pawnbroker or precious metals dealer shall photograph the customer in color and record the customer's name, home address, date of birth, and social security number. The Pawnbroker Act requires that a customer's social security number be documented.

Records of each transaction shall contain the name and address of the customer, a description of each item taken in or sold by the pawnbroker or precious metals dealer, the date and time of the purchase and/or sale, as well as any individual identifiable numbers such as model, serial number, or applied numbers or letters. Digital photographs or video shall be taken by the licensee of each item purchased, taken in barter, trade or pawned.

Licensees shall maintain records of all transactions for three (3) years following the transaction.

Sec. 9-55. Issuance of signed receipt.

Every pawnbroker shall, at the time of making any advancement or loan, deliver to the customer a receipt signed by him containing an accurate account and description, in the English language, of all the goods, articles or other things pawned or pledged, the amount of money, value or thing thereon, the time of pledging the same, the rate of interest to be paid on such loan and the name and residence of the customer making the pawn or pledge.

Every precious metals dealer shall at the time of purchasing precious metals from any customer, issue said customer a receipt containing the description and weight of the items purchased and the amount of money paid for said items.

Sec. 9-56. Employment of persons under sixteen.

Pawnbrokers or precious metals dealers shall not permit any person under the age of sixteen (16) years to make purchases or take pledges in pawn for him.

Sec. 9-57. Precious metal dealer not to act as a pawnbroker.

Unless they have a pawnbroker license, precious metals dealers shall neither receive any article or thing by way of pledge or pawn nor loan or advance any sum of money on the security of any article or thing.

Sec. 9-58. Waiting periods.

- (A) No articles received on deposit or pledge by any pawnbroker shall be permitted to be redeemed or removed from the place of business for a time period of forty-eight (48) hours after it was inventoried.
- (B) No articles pawned or pledged shall be sold or disposed of by any pawnbroker within one (1) year from the time the customer defaulted on the payment of interest on the money so advanced by the pawnbroker, unless by the written consent of the customer.
- (C) No pawnbroker shall expose for sale, or sell, trade or barter, or melt, crush/compact, destroy, or otherwise dispose of, any article that is individually identifiable within seven (7) days of the time of purchasing or receiving the same, or until the same has been in or upon the premises where the same are offered, exposed, traded, bartered or sold, for at least seven (7) days, unless the article consists primarily of precious metal(s).
- (D) Due to fluctuations in the prices of precious metals and security concerns emanating from the accumulation of large quantities of precious metals, there shall be no waiting period for such articles, even if they are individually identifiable.
- (E) There shall be no waiting period for coins, paper money or other non-individually identifiable articles.

Sec. 9-59. Prohibited transactions.

No pawnbroker or precious metals dealer, in the course of conducting his business, shall receive any articles for pawn, pledge, advancement of money, loan, resale, or personal use from customers who meet any of the following criteria:

- (1) are under eighteen (18) years of age.
- (2) appear to be intoxicated or under the influence of drugs or alcohol.
- (3) are known to the pawnbroker or precious metals dealer to have been convicted of theft, residential burglary, burglary, home invasion, vehicular invasion, armed robbery, robbery or electronic fencing under the laws of the State of Illinois, or the equivalent laws of any other state. A peace officer may provide such criminal conviction information to a pawnbroker or precious metals dealer, and a pawnbroker or precious metals dealer shall also access the LeadsOnline "No Buy" list prior to making a transaction to ensure that the prospective pawner/seller has not been convicted of any such crime.

- (4) brings such articles to the premises in a shopping cart.
- (5) presents a serial numbered article from which the serial number has been removed or obliterated.

In the event that any of the above enumerated customers shall attempt to conduct a prohibited transaction, a representative of that business shall notify the police department of the incident while the customer is still present in the business if safe to do so, or otherwise as soon as the customer has left the business.

Sec. 9-60. Report of false/fictitious/forged/altered ID card.

In the event that a person seeking to sell or pawn items to a licensed pawnbroker or precious metals dealer, presents the licensee with what appears to be a false form of identification, the licensee shall contact the police department as soon as it is safe to do so and report the incident.

Sec. 9-61. Report of lost or stolen articles to police.

Every pawnbroker or precious metals dealer who shall receive or be in possession of any goods, articles or things under circumstances which would lead a reasonable person to conclude that they have been lost or stolen, or which have been alleged or supposed to have been lost or stolen shall immediately notify the police department of such receipt and, forthwith on demand, exhibit the same to any member of the police department.

Sec. 9-62. Return of stolen property.

When any person is found to be the owner of stolen property which has been pawned or purchased by a pawnshop or precious metals dealer, such property shall be returned to the owner thereof without the payment of the money advanced by the pawnbroker or the precious metals dealer, which was paid by the pawnshop or the precious metals dealer thereon or any costs or charges of any kind which the pawnbroker or precious metals dealer may have placed upon the same.

Sec. 9-63. Inspection of premises by police.

The chief of police or any officer designated by him shall have general supervision over all pawnbrokers and precious metals dealers, and shall also have power to inspect their respective places of business and all articles or things kept therein, whenever he shall deem it necessary to do so.

Sec. 9-64. Hours of operation.

No business licensed under this article shall purchase or accept any goods, articles or things whatsoever, from any person outside of posted business hours.

Sec. 9-65. Solicitation of articles.

No person licensed under this article shall be permitted to solicit business of any nature upon any street or public highway in the city.

Sec. 9-66. City license requirements.

In addition to any license which may be required by the State of Illinois:

- (A) No person shall engage in, carry on or conduct the business of a pawnbroker or precious metals dealer unless the business is licensed by the city.
- (B) A pawnbroker license and precious metals dealer license are separate from each other, and the license shall state for which it is.

- (C) A pawnbroker license shall entitle the licensee to engage in the purchase, sale, trade or barter of secondhand articles in addition to the business of receiving property in pledge or as security for money or other things.
- (D) A precious metals dealer license will entitle the licensee to purchase precious metals and gems from individuals. A precious metals dealer cannot act as a pawnbroker without first having obtained a pawnbroker license from the State of Illinois and a pawnbroker license from the city.
- (E) Neither a pawnbroker license nor a precious metals dealer license are transferable.
- (F) A license shall only be issued to the actual owner, operator or manager of the business for which the license is sought.
- (G) Should a pawnbroker or precious metals dealer own multiple businesses or have multiple locations in the city where activities regulated by this chapter take place, he must secure a separate license for each business and/or location.

Sec. 9-67. Number of licenses; fees.

- (A) The number of licenses may be increased or reduced at any time by the city council. No license in violation of that number shall be issued or renewed.
- (B) There shall be no more than the following number of licenses:
 - i. Pawnbroker.....1
 - ii. Precious Metals Dealer.....8
- (C) The applicable license fees are as prescribed in Appendix G.

Sec. 9-68. Application.

Any person desiring a license as a pawnbroker or precious metals dealer shall make application in writing to the city administrator or his designee, setting out in the application the full name and residence of the applicant, if an individual, and if a corporation, the name and residence of each of its officers. Such application shall also set out the location at which it is intended or desired to conduct such business, and such other information as the city administrator or his designee shall from time to time deem appropriate. Such application shall also require each applicant to certify that he has read and understands the contents of this article.

Any false information provided on the application shall result in the denial or automatic revocation of the license.

Sec. 9-69. License to state location of business.

Every license granted to any pawnbroker or precious metals dealer under the provisions of this division shall designate the place in which the person receiving the license shall be authorized to carry on such business. Such business shall not be carried on or conducted in any place other than at the location listed on the license.

Sec. 9-70. Change of location of business.

In case any person licensed as a pawnbroker or precious metals dealer shall remove his place of business from the place designated on such license, no business shall be carried on or engaged in at the new location under such license until written notice of such change has been given by the licensee to the city administrator or his designee.

Sec. 9-71. License to be publicly posted.

Every license granted under this article shall be conspicuously posted for public viewing so as to be seen by anyone entering the place of business of such pawnbroker or precious metals dealer.

Sec. 9-72. Background Checks.

The city administrator or his designee shall grant licenses (to the extent available) to such pawnbroker or precious metals dealer applicants as shall who have passed a background check conducted by the police department, and paid the associated fees. Any person who is a corporate officer, employed by or providing volunteer work for the licensee shall also be required to pass a background check conducted by the police department. The results of all background checks will be reviewed to determine if the applicant has a history of past criminal conduct or criminal associations that would make it not in the best interests of the City to issue a license to the applicant to engage in such business.

Sec. 9-73. Suspension; revocation.

It shall be the duty of the chief of police to report to the city administrator any failure to comply with any provision of this article on the part of any such licensee. Depending on the nature and/or frequency of the violations, the city administrator may commence administrative hearing procedures to suspend or revoke the license of such person, firm or corporation.

Sec. 9-74. Penalties.

Any person, firm, or corporation who shall violate any provision of this article shall be subject to, at minimum, a fine of not less than \$750.00 per occurrence.

Sec. 9-75. Reserved.

Section 3. That Appendix G, Section 2.1 of the Code of Ordinances of the City of West Chicago is hereby amended to add Pawnbroker License and Precious Metals Dealer License, both with an applicable license fee of \$585.00.

Section 4. All pawnbrokers and precious metals dealers operating within the city at the time these licensing regulations are adopted by the city council shall be granted a license so long as they comply with all of the requirements in this article.

Section 5. Any Ordinance or a portion of any Ordinance in conflict with the provisions herein is expressly repealed to the extent of said conflict.

Section 6. Should any portion of this Ordinance be declared void or unenforceable by any Court of competent jurisdiction, such ruling shall not affect the validity of the surviving portions of this section.

Section 7. This Ordinance shall be in full force and effect on November 1, 2012 for the 2013 business license year.

ADOPTED this ____ day of ____ 2012.

Alderman L. Chassee	_____	Alderman J. Beifuss	_____
Alderman R. Pineda	_____	Alderman R. Radkiewicz	_____
Alderman A. Murphy	_____	Alderman S. Dimas	_____
Alderman K. Meissner	_____	Alderman R. Stout	_____
Alderman N. Connelly	_____	Alderman N. Dzierzanowski.	_____
Alderman M. Fuesting	_____	Alderman H.R. Monroe	_____
Alderman J. Smith	_____	Alderman J.C. Smith, Jr.	_____

APPROVED as to form: _____
City Attorney

ADOPTED this ____ day of _____, 2012

Acting Mayor Ruben Pineda

ATTEST:

City Clerk, Nancy Smith

PUBLISHED: _____