

## SECTION 2

### 1002.000. **REGULATION OF PAWN BROKERS AND PRECIOUS METAL DEALERS.**

1002.001. **PURPOSE.** The City Council finds that pawnbrokers and precious metal dealers potentially provide an opportunity for the commission and concealment of crimes. Such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers and precious metal dealers. The purpose of this Ordinance is to prevent pawnbroking and precious metal businesses from being used as facilities for commission of crimes and to ensure that such businesses comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of the citizens of the City of Winsted.

### 1002.002. **DEFINITIONS.**

- A. "Item containing precious metal" means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.
- B. "Minor" means any natural person under the age of 18 years.
- C. "Oversized items" means large items such as cars, boats, and motorized vehicles and motorized equipment.
- D. "Pawnbroker" means a person who loans money on deposit or pledge of personal property or other valuable thing; 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 business includes buying personal property previously used, rented, or leased, the provisions of this section shall be applicable. Any bank, savings and loan association, or credit union shall not be deemed a pawnbroker for purposes of this section.
- E. "Person" means an individual, partnership, or non-profit corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.
- F. "Precious Metal Dealer" means any person engaging in the business of buying coins or secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.
- G. "Precious Metals" means silver, gold, or platinum.
- H. "Secondhand item" means tangible personal property, excluding motor vehicles, which has been previously used, rented, owned or leased.

1002.003. **LICENSE REQUIRED.** No person shall engage in the trade or business of pawnbroker or precious metal dealer within the City unless such person is currently licensed under this Ordinance.

1002.004. **EXCEPTIONS TO LICENSE REQUIREMENT:**

A. Precious Metal Dealers conducting the following transactions are not required to obtain a license under this Section.

1. Transactions at occasional "garage" or "yard" sales, or estate sales or farm auctions held at the decedent's residence, except that precious metal dealers must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742, for these transactions.
2. Transactions regulated by Minnesota Statutes, Section 80A.
3. Transactions regulated by the Federal Commodity Futures Commission Act.
4. Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.
5. Transactions involving the purchase of photographic film, such a lithographic and x-ray film or silver residue or flake recovered in lithographic and x-ray film processing.
6. Transactions involving coins, bullion, or ingots.
7. Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this Section must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742.
8. Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes, Section 325F.733, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes, Section 325F.733
9. Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of 12 consecutive months.

- B. A person who holds a motor vehicle dealer license is exempt from the terms of this Ordinance with respect to motor vehicles.

**1002.005. PERSONS INELIGIBLE.**

- A. No license shall be issued to any person who:
  - 1. Is not a citizen of the United States or a resident alien.
  - 2. Is a minor at the time the application is filed.
  - 3. Has been convicted of any crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of pawnbroker or precious metal dealer under Minnesota Statutes, Section 364.03, Subdivision 3, or a person not of good moral character and repute.
  - 4. In the judgment of the City Council is not the real party in the interest or beneficial owner of the business operated under the license.
  - 5. Has had a pawnbroker or precious metal dealer's license revoked anywhere within five (5) years of the license application.
  - 6. In the case of an individual, is not a resident of McLeod County for a number of 180 days; in the case of a partnership, the managing partner is not a resident of McLeod County; or in the case of a corporation, the manager is not a resident of McLeod County. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency within McLeod County may, for good cause, be extended by the Council.

**1002.006. PLACES INELIGIBLE.**

- A. No license shall be issued for any place or any business ineligible for a license under City Ordinance or State law.
- B. No license shall be issued for operation in a residential zoning district.
- C. No License shall be issued for a place or business which holds a liquor license.
- D. No license shall be granted for operation on any premises on which taxes, assessments or other financial claims of the City or other government agency, are delinquent or unpaid zoned commercial, in addition to being located a minimum of 500 ft from any school, church, library or daycare home.

**1002.007. LICENSE APPLICATION.**

A. In addition to any information which shall be required by the County pursuant to Minnesota Statutes, Section 471.924, every application for a license under this Ordinance shall be made on a form supplied by the City, shall be verified and shall contain the following information:

1. Representations as to the applicant's character;
2. The business in connection with which the proposed license will operate;
3. Whether the applicant is the owner and operator of the business and if not, who is;
4. Whether the applicant has ever used or been known by a name other than his/her true name, and if so, what was the name, or names, and information concerning dates and places where used;
5. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
6. Street address at which applicant and spouse have lived during the preceding ten years;
7. Kind, name and location of every business or occupation applicant and spouse have been engaged in during the preceding ten years;
8. Names and addresses of applicant's and spouse's employers and partners, if any, for the preceding ten years;
9. Whether the applicant or spouse has ever been convicted of a violation of any state law or local Ordinance, other than a non-alcohol related traffic offense. If so, the applicant shall furnish information as to the time, place and offense for which convictions were had;
10. Whether the applicant or spouse has ever been engaged as an employee or in operating a pawnshop or precious metal dealership or other business of a similar nature. If so, applicant shall furnish information as to the time, place and length of time.
11. Whether the applicant has ever been in military service. If so, the applicant shall, upon request, exhibit all discharges.
12. If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner, or partners, shall be designated. The interest of each partner, or partners in the business shall be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of

Minnesota Statute, Chapter 333, a copy of the certificate certified by the Clerk of District Court shall be attached to the application.

13. If the applicant is a corporation or other organization, the applicant shall submit the following:
  - a. Name, and if incorporated, the state of incorporation;
  - b. A true copy of the certificate of incorporation, articles of incorporation or association agreements;
  - c. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant.
  - d. A list of all persons who, single or together with their spouse own or control an interest in said corporation or association in excess of five percent or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.
14. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture, or stock in trade, and proof of the source of the money.
15. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by State or City employees in case of emergency. These persons shall be residents of Minnesota.
16. Whether the applicant holds a current pawnbroker or precious metal dealer license from any other governmental unit and whether the applicant is licensed under Minnesota Statutes, Section 471.924 or 325F.731 to 325F.744.
17. Whether the applicant has ever been denied a pawnbroker or precious metal dealer license from any other governmental unit.
18. The location of the business premises.
19. The legal description of the premises to be licensed including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities.
20. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.

21. Other information which the City deems appropriate.

- B. No person shall make a false statement or material omission in a license application or investigation. Any false statement or material omission shall be grounds for denial, suspension, or revocation of a license.
- C. Each licensee shall have the continuing duty to properly notify the City Clerk of any change in the information or facts required to be furnished on the application for a license. This duty shall continue throughout the period of the license. Failure to comply with this section shall constitute cause for revocation or suspension of the license.
- D. The application for the renewal of any existing license shall be made at least 90 days prior to the date of the expiration of the license and shall be made on the form which the City provides.

1002.008. **FEES.**

- A. Every applicant for a license shall pay to the City the investigation fee of \$500.00. This fee shall be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the Council believes that the public interest so warrants, it may require a similar investigation at the time of renewal of any license. If an investigation is ordered by the City Council at the time of license renewal, the applicant shall pay the fee specified above, except that the fee shall be the smaller of the stated dollar amount or the actual cost of the investigation. There shall be no refund of the investigation fee for any person after the investigation has begun.
- B. The annual fees for a pawnshop or precious metal dealer's license shall be \$2,000.00.
- C. Each license shall expire on December 31st of the year in which it is issued. Fees for licenses issued during the license year shall be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month shall be counted as a whole month which shall have elapsed.
- D. No refund of any fee shall be made.

Pawnbrokers:

License	\$ 2,000
Investigation Fee	\$ 500

Precious metal Dealers:

License	\$ 2,000
Investigation Fee	\$ 500

- E. Amendment of Fees: Any fees herein may be amended by Resolution of the City Council.

1002.009. **BOND REQUIRED.**

- A. At the time of filing an application for a license, the applicant shall file a bond in the amount of \$5,000.00 with the City Clerk. The bond, with a duly licensed surety company as surety thereon, must be approved as to form by the city attorney. Said bond must be conditioned that the licensee shall observe the Ordinances of the City, in relation to the business of pawnbroker and precious metal dealer, and that the licensee will account for and deliver to any person legally entitled thereto any articles which may have come into the possession of the licensee as pawnbroker or precious metal dealer or in lieu thereof such licensee shall pay the person or persons the reasonable value thereof.

1002.010. **GRANTING OF LICENSES.**

- A. No license shall be issued until the Winsted Police Department has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate with this investigation.
- B. No license shall be issued until the Council has held a public hearing in accordance with the following:
  - 1. At the public hearing all persons interested in the matter shall be heard, and the hearings may be adjourned from time to time. No hearing shall be required for a renewal of a license, but the Council may, at its option, hold a hearing.
- C. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:
  - 1. Had a license within the previous five years for the establishment which is specified in the application and which is continuing to operate under a license;
  - 2. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
  - 3. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
  - 4. Otherwise qualifies and meets the requirements for a license.

In this situation, the City Council may immediately issue an interim license to the applicant for a period no longer than 90 days. The applicant must thereafter proceed through the specified requirements

for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant shall have no greater right to continuation of the license than he would have had to issuance of a new license following the normal procedure without the interim license.

- D. After investigation and hearing, the Council shall, at its discretion, grant or deny the application. Each application shall require 4/5's affirmative votes by the City Council for approval.
- E. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application to the Council in the same manner as an application for a new license. Transfer of 25 percent or more of the stock of a corporation or of a controlling interest thereof, whichever is less, shall be deemed a transfer of the license of a corporate licensee. If the licensee is a corporation which is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest shall apply to that parent corporation, any second parent corporation which wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval shall be a separate violation of this Ordinance.
- F. Any application for a license may be considered by the City Council at the same time an applicant is requesting any land use approvals needed for the site, including site plan review, rezoning, or an amendment to the Zoning Ordinance. Final approval of a license shall not be granted until the Planning Commission has given approval to any necessary land use request. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.
- G. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

1002.011. **CONDITIONS OF LICENSE.**

- A. Generally. Every license is subject to the conditions in the following paragraphs, all other provisions of this Ordinance, and of any other applicable regulations, Ordinance or State law. No property may be accepted for re-sale if the serial or identification number has been altered or removed.
- B. Maintenance of Peace. Every licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of any



employee of the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this Ordinance equally with the employee, except criminal penalties.

- C. Display of License. Every license must be posted in a conspicuous place in the premises for which it is used.
- D. Record Keeping. At the time of a receipt of an item of property, every licensee shall immediately record, in English, in an indelible ink, in a book or journal, which has page numbers that are preprinted the following information:
  - 1. An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;
  - 2. The date and time the item of property was received by the licensee.
  - 3. The name, address, and date of birth and reasonably accurate physical description of the person from whom the item of property was received.
  - 4. The amount of money loaned upon or pledged for the item.
  - 5. The identification number from one of the following forms of identification of the person from whom the item was received:
    - a. A valid Minnesota photo driver's license;
    - b. A Minnesota photo Identification Card;
    - c. A photo identification card issued by the state of residency of the person from whom the item was received, and one other valid form of identification;
    - d. Passport; or
    - e. Military photo identification.
- E. Photographic Record. A pawnbroker or precious metal dealer must obtain a photograph of each person selling or pawning any item of property. The pawnbroker or precious metal dealer shall notify the person being photographed prior to taking his or her picture. The photograph shall be at least two inches in length by two inches in width and shall be immediately developed and referenced with the information regarding the person and the item sold or pawned. The major portion of the photograph shall include a front facial pose. The photograph shall be retained by the pawnbroker or precious metal dealer for 60 days.
- F. Inspection of Records. The licensee shall make available the information required in Section 1002.011.D. above at all reasonable times for inspection by the Winsted Police Department. The information required in Section

1002.011.D. shall be retained by the pawnbroker or precious metal dealer for at least four years.

G. Receipts. The licensee shall provide a receipt to the seller or pledger of any item of property received, which shall be numbered to correspond to the entry in the licensee's records and shall include:

1. The name, address, and phone number of the pawnbroker or precious metal dealer business.
2. The date on which the item was received by the pawnbroker or precious metal dealer.
3. A description of the item received and amount paid to the pledger or seller in exchange for the item pawned or sold, and whether it was pawned or sold.
4. The signature of the pawnbroker or precious metal dealer or agent.
5. The last regular business day 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(s) on that date.
6. The annual rate of interest charged on pawned items received.
7. The name and address of the seller or pledger.

H. Reports to Police. For the types of items listed below, the licensee must submit to the Winsted Police Department on a weekly basis a list of the specific items purchased or received that week. The list must be on forms approved by the City and must contain all of the information itemized in Subsection D above.

1. Any item with a serial number, identification number, or "Operation Identification" number;
2. Cameras;
3. Electronic, audio, video or radar detection equipment;
4. Precious jewelry, gems and metals;
5. Artist-signed or artist-attributed works of art;
6. Firearms, of any kind and caliber.
7. Any item not included in 1. - 6. above which the pawnbroker or precious metal dealer intends to sell for more than \$200, except for furniture and kitchen or laundry appliances.

The forms shall contain all the information itemized in Subsection D above.

- I. **Stolen or Lost Property.** A pawnbroker or precious metal dealer must report to Winsted police any item pledged or received, or sought to be pledged or received, if the pawnbroker or precious metal dealer has reason to believe that the article was stolen or lost.
- J. **Police Restrictions on Sale or Redemption.** Whenever the Winsted Police Department notifies the license not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the Winsted Police Department.
- K. **Redemption or Sale.** Any item received by the pawnbroker or precious metal dealer for which a report to the Winsted police is required shall not be sold or otherwise transferred, or in the case of precious metal, melted down or dismantled, for 30 days after the date of such report to the police. However, a person may redeem a pawned item 72 hours after the item was received by the pawnbroker or precious metal dealer, excluding Sundays and legal holidays.
- L. **Inspection of Items.**
  - 1. **Inspection by City.** The pawnbroker or precious metal dealer shall, at all time during the term of the license, allow the Winsted Police Department to enter the premises where the pawnbroker or precious metals dealer business is located and any other premises where items purchased or received as part of the business are stored, for the purpose of inspecting such premises and the merchandise therein to locate items suspected or alleged to have been stolen or otherwise improperly disposed of.
  - 2. **Inspection by Claimants.** Additionally, all the items coming into possession of the licensee shall at all times be open to inspection and right of examination of any person claiming to have been the owner thereof or claiming to have any interest therein, when such person is accompanied by a Winsted police officer.
- M. **Payment by Check.** Payment by the licensee for any article deposited, left, purchased, pledged or pawned, shall be made only by check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.
- N. **Gambling.** No licensee may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes, Section 349.11 - 349.61, may be kept or operated

and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes, Section 349A.01 - 349A.15.

- O. Oversized items. All items must be stored within the licensed premises building, except the City may permit the licensee to designate one locked and secured warehouse building within the City within which the licensee may store oversized items. No item may be stored in the designated warehouse building that is not reported in the journal pursuant to Subdivision 4 above. The licensee shall permit immediate inspection of the warehouse at any time during business hours by the City and failure to do so is a violation of this Ordinance. Oversized items may not be stored in parking lots or other outside areas. All provisions in this Section regarding record keeping and reporting shall apply to oversized items.
- P. Off Site Sales/Storage. All items accepted by a licensee at a licensed location in the City shall be for pledge or sale through a licensed location in the City shall be for pledge or sale through a licensed location in the City. No licensee under this Section shall sell any items which are transferred from a non-licensed facility or a licensed facility outside the City.
- Q. Restrictions on Weapons.
  - 1. A pawnbroker or precious metal dealer may not receive as a pledge or otherwise, or accept for consignment or sale, any firearm as defined in Section 1002.011.H.6. of this Ordinance, unless the pawnbroker or precious metal dealer also maintains a federal firearms dealer's license.
  - 2. A pawnbroker or precious metal dealer may not receive as a pledge or otherwise, or accept for consignment or sale, any assault weapon, including, but not limited to revolver, pistol, sawed-off shotgun, automatic rifle, blackjack, or switchblade knife.

#### 1002.012. **SUSPENSION AND REVOCATIONS OF LICENSE.**

- A. Delinquent Taxes. The City Council may suspend or revoke a license issued under this Chapter for operation on any premises on which real estate taxes, assessments or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minnesota statutes Chapter 278, questioning the amount of validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one year period is extended through no fault of the licensee.
- B. Violations.

1. The Council may either suspend for up to 60 days or revoke any license or impose a civil fine not to exceed \$2,000 for each violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with any applicable statute, regulation or Ordinance. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statute Section 14.57 to 14.69.
2. Any conviction by the licensee for theft, burglary, robbery, receiving stolen property or any other crime or violation involving stolen property shall result in the immediate suspension pending a hearing on revocation of any license issued hereunder.

1002.013. **PENALTY.** Except as otherwise provided by State law, any person violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or jail term established by the state statute for misdemeanors. Any fine or sentence imposed shall not affect the right of the City to suspend or revoke the license of the licensee as the Council deems appropriate.