

Village of Almena, WI
Tuesday, July 30, 2024

Chapter 200. Pawnbrokers and Secondhand Dealers

[HISTORY: Adopted by the Village Board of the Village of Almena as § 12.22 of the former Village Code. Amendments noted where applicable.]

§ 200-1. Purpose.

- A. The Village Board finds that use of services provided by pawnbrokers, secondhand article dealers, and secondhand jewelry dealers provide 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 Board also finds that consumer protection regulation is warranted in transactions involving pawnbrokers secondhand article dealers, and secondhand jewelry dealers. The County Board further finds that the pawnshops, secondhand article dealers, and secondhand jewelry dealers have outgrown the county's current ability to effectively or efficiently identify criminal activity related to them. The purpose of this chapter is to prevent pawnshops, secondhand article dealers, and secondhand jewelry dealers from being used to facilitate 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 county and pursuant to the authority granted by § 134.71, Wis. Stats.
- B. To help the Police Department and the Sheriff's Department better regulate current and future pawnshops, secondhand article dealers, and secondhand jewelry dealers, 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).

§ 200-2. Definitions.

When used in this chapter, the following words shall mean:

ARTICLE

Any item of value.

BILLABLE TRANSACTION

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

CHARITABLE ORGANIZATION

A corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

CUSTOMER

A person with whom a pawnbroker, or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.

PAWNBROKER

Any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker's business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

- A. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem, or antique show, or a convention.
- B. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor, as described in § 70.995(2)(x), Wis. Stats.
- C. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.
- D. Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:
 - (1) The return of the article.
 - (2) The exchange of the article for a different, new article.
- E. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
- F. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

REPORTABLE TRANSACTION

Every transaction conducted by a pawnbroker in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, 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:

- A. The bulk purchase or consignment of new or used articles from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.
- B. Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

SECONDHAND ARTICLE

Owned by any person, except a wholesaler, retailer, or licensed second article dealer, immediately before the transaction at hand.

SECONDHAND ARTICLE DEALER

Any person, other than an auctioneer, who primarily engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

- A. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife or antique show or a convention.
- B. Any transaction entered into by a person while engaged in a business for which the person is licensed pursuant to § 134.71(2) or (4), Wis. Stats., or while engaged in the business of junk collector, junk dealer or scrap processor as described in § 70.995(2)(x), Wis. Stats.

- C. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.
- D. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
 - (1) The return of the article.
 - (2) The exchange of the article for a different, new article.
- E. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.
- F. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

SECONDHAND JEWELRY DEALER

Any person, other than an auctioneer, who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand jewelry, except for the following:

- A. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife or antique show or a convention.
- B. Any transaction with a licensed secondhand jewelry dealer.
- C. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or valuable articles if the person has no retail operation open to the public.
- D. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
 - (1) The return of the jewelry.
 - (2) The exchange of the jewelry for a different, new jewelry.
- E. Any transaction as a purchaser of secondhand jewelry from a charitable organization if the secondhand jewelry was a gift to the charitable organization.
- F. Any transaction as a seller of secondhand jewelry which the person bought from a charitable organization if the secondhand jewelry was a gift to the charitable organization.

§ 200-3. License required.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

No person may operate as a pawnbroker, secondhand article and secondhand jewelry dealer within the within the Village limits unless the person first obtains a pawnbroker, secondhand article and secondhand jewelry dealer license under this chapter.

§ 200-4. Fees and display of license.

Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premises.

- A. The annual license fee for licenses issued under this chapter are as prescribed by § 134.71(11), Wis. Stats.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- B. The billable transaction fee shall reflect the cost of processing transactions and other related regulatory expenses as set from time to time by the Village Board.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- C. Billable transaction fees shall be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this chapter.

§ 200-5. License application.

A person wishing to operate as a pawnbroker shall apply for a license to the Village Clerk. The Clerk shall furnish application forms approved by the Police Department or Sheriff's Department that shall require all of the following:

- A. The applicant's name, place and date of birth, residence address, and residence addresses for the ten-year period prior to the date of the application.
- B. The name and address of the business and of the owner of the business premises.
- C. Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:
 - (1) If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
 - (2) If the applicant is a partnership, the names and addresses of all partners.
 - (3) If the applicant is a limited liability company, the names and addresses of all members.
 - (4) The name of the manager or proprietor of the business.
 - (5) Any other information that the Clerk may reasonably require.
- D. A statement as to whether the applicant, including an individual, agent, officer, director, member, partner, manager, or proprietor, has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place and offense of all such convictions.
- E. Whether the applicant or any other person listed in Subsection **D** above has ever used or 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.
- F. Whether the applicant or any other person listed in Subsection **D** above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.
- G. 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 14 days. The application must include all appropriate information required in this section.

§ 200-6. Investigation of license applicant.

The Police Department or Sheriff's Department shall investigate each applicant and any other person listed in § **200-5C** or **G** above for a pawnbroker license. The Department shall furnish the information derived from that investigation in writing to the County Clerk. The investigation shall include each agent, officer, member, partner, manager, or proprietor.

§ 200-7. License issuance.

A. The County Board shall grant the license if all of the following apply:

- (1) The applicant, including an individual, a partner, a member of a limited liability company, a manager, a proprietor, or an officer, director, or agent of any corporate applicant, does not have an arrest or conviction record, subject to §§ 111.321, 111.322 and 111.335 of the Wisconsin Statutes.
- (2) The applicant provides to the Village Clerk a bond of \$248 with not less than two sureties for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the term of the license.

B. No license issued under this subsection may be transferred.

C. Each license is valid from January 1 until the following December 31.

§ 200-8. Records required.

At the time of any reportable transaction other than renewals, extensions, redemptions or confiscations, 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:

- A. 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.
- B. The purchase price, amount of money loaned upon or pledged therefor.
- C. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
- D. 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.
- E. 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.
- F. The identification number and state of issue from any of the following forms of identification of the seller:
 - (1) Current valid Wisconsin driver's license.
 - (2) Current valid Wisconsin identification card.
 - (3) Current valid photo identification card issued by another state or province of Canada.
- G. The signature of the person identified in the transaction.
- H. Effective 60 days from the date of notification by the Police Department of acceptable video standards the licensee must also take a color photograph or color video recording of each customer involved in a billable transaction and every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed. If a photograph is taken, it must be at least two inches in length by two inches in width and 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 County Sheriff or the Sheriff's designee, upon request. The major portion of the photograph must include an identifiable facial image 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 focus on the person pawning or selling the item so as to include an identifiable image

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 by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee must keep the exposed videotape for three months.

- I. Digitized photographs. Effective 60 days from the date of notification by the Police Department, licensees must fulfill the color photograph requirements in Subsection **H** above 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 Subsection **H**.
- J. Renewals, extensions, redemptions and confiscations. For renewals, extensions, redemptions and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.
- K. Inspection of records. The records must at all reasonable times be open to inspection by the Police Department and/or Sheriff's Department. Data entries shall be retained for at least three years from the date of transaction. Entries of required digital images shall be retained a minimum of 90 days.

§ 200-9. Daily reports to police; penalty for failure to report.

- A. Effective no later than 60 days after the Police Department or Sheriff's Department provides licensees with the current version of the Automated Pawn System Interchange File Specification, licensees must submit every reportable transaction to the Police Department/Sheriff's Department daily in the following manner.
 - (1) Licensees must provide to the Police Department/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 sufficient size, in a conspicuous place in the premises, which informs patrons that all transactions are reported to the Police Department/Sheriff's Department daily.
- B. Billable transaction fees. Licensees will be charged for each billable transaction reported to the Police Department.
 - (1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the Police Department, upon request, printed copies of all reportable transactions along with the videotape(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 herein and shall be charged \$248 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 as required herein 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 § **200-8H**, 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 Sheriff's 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) Notwithstanding the reports required herein, the Sheriff's Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

§ 200-10. 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 years. The receipt must include at least the following information:

- A. The name, address and telephone number of the licensed business.
- B. The date and time the item was received by the licensee.
- C. Whether the item was pawned or sold, or the nature of the transaction.
- D. 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.
- E. The signature or unique identifier of the licensee or employee that conducted the transaction.
- F. The amount advanced or paid.
- G. The monthly and annual interest rates, including all pawn fees and charges.
- H. The last regular day of business 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 on that date.
- I. The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller.
- J. The identification number and state of issue from any of the following forms of identification of the seller:
 - (1) Current valid Wisconsin driver's license.
 - (2) Current valid Wisconsin identification card.
 - (3) Current valid photo driver's license or identification card issued by another state or province of Canada.,
- K. Description of the pledger or seller, including approximate sex, height, weight, race, color of eyes and color of hair.
- L. The signature of the pledger or seller.

§ 200-11. Redemption period.

- A. Any person pledging, pawning or depositing an item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the sixty-day holding period, items may not be removed from the licensed location except as provided in § 200-18. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, or to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the Sheriff or Sheriff's

designee. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with § 200-8 herein.

- B. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

§ 200-12. Holding period.

- A. Except as provided in Subsection **C**, any secondhand article purchased or received by a pawnbroker shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.
- B. During the period set forth in Subsection **A**, the secondhand article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker shall make available for inspection any secondhand article which is kept off the premises for safekeeping.
- C. Subsections **A** and **B** do not apply to a secondhand article consigned to a pawnbroker.

§ 200-13. 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 72 hours and will remain in effect for 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 this section, whichever comes first.
- B. Order to hold. Whenever the Chief or Police or Sheriff, or the Police or 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 Chief or the Chief's designee. The order to hold shall expire 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 Sheriff or Sheriff's designee may:
 - (1) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chiefs designee, or
 - (2) Place the item on hold or extend the hold as provided in this section and leave it in the shop.
- D. 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.
- E. When an order to hold/confiscate is no longer necessary, the Sheriff or Sheriff's designee shall so notify the licensee.

§ 200-14. Inspection of items.

At all times during the term of the license, the pawnbroker, secondhand article dealer, and secondhand jewelry dealer must allow the Police Department/Sheriff's Department to enter the premises where the licensed business is located, including all off-site storage facilities, as authorized in § 200-18, during normal business hours, except in an emergency, for the purpose of inspecting such premises and

inspecting the items, ware, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

§ 200-15. 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/Sheriff's 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.

§ 200-16. Prohibited acts.

- A. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbrokers, secondhand article dealers, and secondhand jewelry dealer nor may any pawnbrokers, secondhand article dealers, and secondhand jewelry dealer receive any goods from a person under the age of 18 years, except as permitted by Subsection **A(1)**.
 - (1) A pawnbroker may engage in a transaction described under Subsection **A** if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.
- 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 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.

§ 200-17. License denial, suspension, or revocation.

- A. The Village Board may deny, suspend, or revoke any license issued by it under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of this chapter or § 134.71, 943.34, 948.62 or 948.63, Wis. Stats., or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.
- B. The Village Board may deny, suspend, or revoke any license issued by it under this chapter if 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.

§ 200-18. License limited to permanent place of business.

A license under this chapter authorizes the licensee to carry on its business only at the permanent place of business designated in the license. However, upon written request, the Police Chief, Sheriff or designee, may approve an off-site locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § **200-14**, Inspection of items. All provisions of this chapter regarding recordkeeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the county 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 premises that extends for more than six months.

§ 200-19. Severability.

Should any section, subsection, clause or other provision of this chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part other than the part so declared invalid.