



Memorandum

To: Mayor Nelson and Members of the City Council

From: Daniel R. Buchholtz, MMC, Administrator, Clerk/Treasurer

Date: December 27, 2019

Subject: Ordinance Amending Chapter 113 of the City Code Relating to Pawnbrokers

With the City Council's adoption of the contract implementing the LEEDS system, staff has prepared ordinance amendments to update the ordinance with the new system requirements.

The ordinance replaces references to the old "automated pawn system (APS)" with "an electronic reporting and criminal investigation system", which essentially removes the a brand name and replaces it with a generic description so that if the system changes again, an ordinance amendment will not be necessary. The ordinance amends outdated language from the ordinance (e.g. replaces transmitted by modem with transmitted electronically). The ordinance also establishes an administrative penalty system for violations of the ordinance. While the City has had excellent compliance from our current licensee, this change will provide the City Council with additional tools for addressing code violations. The ordinance also updates language relating to transaction records.

Staff recommends approval of the proposed ordinance. If you have any questions, please don't hesitate to contact me at 763-784-6491.

ORDINANCE NO. 462

AN ORDINANCE AMENDING CHAPTER 113 OF THE SPRING LAKE PARK CODE OR ORDINANCE RELATING TO PAWNBROKERS

The City Council of the City of Spring Lake Park, Minnesota, ordains as follows:

Section 1. §113.01(B) shall hereby be amended as follows:

(B) To help the Police Department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this chapter also implements and establishes the required use of an electronic reporting and criminal investigation system. ~~the automated pawn system (APS).~~

Section 2. §113.15 shall hereby be amended as follows:

The annual license fee and the ~~billable transaction~~ electronic reporting and criminal investigation system fee for a pawnbroker or pawnbrokers for a location where more than one is engaged in business shall be separately set from time to time, by ~~resolution~~ ordinance of the City Council as it, in its discretion, deems appropriate.

Section 3. §113.16 shall hereby be amended as follows:

§ 113.16 LICENSE APPLICATION.

(A) *Application; content.* An application form provided by the ~~City Department of Licenses and Consumer Services~~ City Department of Licenses and Consumer Services must be completed by every applicant for a new license or for renewal of an existing license. Every new applicant must provide all the following information:

- (1) If the applicant is a natural person:
 - (a) The name, place and date of birth, street resident address, and phone number of the applicant;
 - (b) Whether the applicant is a citizen of the U.S. or resident alien;
 - (c) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;
 - (d) The name of the business if it is to be conducted under a designation, name, or style other than the name of the applicant and a certified copy of the certificate as required by M.S. § 333.01, as it may be amended from time to time;
 - (e) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five years;
 - (f) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and offense of all such convictions;

- (g) The physical description of the applicant;
 - (h) The applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to application; and
 - (i) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in divisions(A)(1)(a) - (A)(1)(g) of this section.
- (2) If the applicant is a partnership:
- (a) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in division (A)(1) of this section;
 - (b) The name(s) of the managing partner(s) and the interest of each partner in the licensed business;
 - (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of that certificate must be attached to the application;
 - (d) A true copy of the federal and state tax returns for the partnership for the two years prior to application; and
 - (e) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (A)(1)(a) - (A)(1)(g) of this section.
- (3) If the applicant is a corporation or other organization:
- (a) The name of the corporation or business form, and if incorporated, the state of incorporation;
 - (b) A true copy of the certificate of incorporation, articles of incorporation, or association agreement, and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, must be attached;
 - (c) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in (A)(1)(a) - (A)(1)(g) of this section; and
 - (d) A list of all persons who control or own an interest in excess of 5% in the organization or business form or who are officers of the corporation or business form and all information concerning those persons required in division (A)(1) above. This division (A)(3)(d), however, shall not apply to a corporation whose stock is publicly traded on a stock exchange and is applying for a license to be owned and operated by it.
- (4) For all applicants:
- (a) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;
 - (b) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand dealer license from any other governmental unit;
 - (c) The location of the business premises;
 - (d) If the applicant does not own the business premises, a true and complete copy of the executed lease;
 - (e) The legal description of the premises to be licensed;
 - (f) 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;

(g) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and

(h) Other information as the City Council or issuing authority may require.

(B) *Site plan.* The application for a pawnbroker license must be accompanied by a site plan drawn to scale. The site plan must contain:

(1) A legal description of the property upon which the proposed licensed premises are situated;

(2) A plot plan;

(3) The exact location of the licensed premises on the property, customer and employee parking areas, accesses onto the property, and entrance into the premises;

(4) The location of and distance from the nearest church, school, hospital, and residence; and

(5) A floor plan of the licensed premises.

(C) *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.

(1) *Investigation fee.* Upon completion of an investigation of a new manager, the licensee must pay an amount equal to the cost of the investigation to assure compliance with this section. If the investigation process is conducted solely within this state, the fee shall be as set from time to time by Council ~~resolution~~ ordinance. If the investigation is conducted outside this state, the issuing authority may recover the actual investigation costs not exceeding \$10,000.

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

(3) *Investigation.* The Police Department must investigate into the truthfulness of the statements set forth in the application and shall endorse the findings thereon. The applicant must furnish to the police license inspector such evidence as the inspector may reasonably require in support of the statements set forth in the application.

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

(a) Is a minor at the time that the application is filed;

(b) Has been convicted of any crime directly related to the occupation licensed as prescribed by M.S. § 364.03(2), as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this chapter as prescribed by M.S. § 364.03(3), as it may be amended from time to time; or

(c) Is not of good moral character or repute.

Section 4. §113.20 shall hereby be amended to read as follows:

§ 113.20 LICENSE DENIAL, SUSPENSION, OR REVOCATION; PENALTIES

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

- (1) The proposed use does not comply with the any applicable zoning code;
- (2) The proposed use does not comply with any health, building, building maintenance, or other provisions of this chapter or other ordinances of the city, or state law;
- (3) The applicant or licensee has failed to comply with one or more provisions of this chapter;
- (4) The applicant is not a citizen of the U.S. 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;
- (5) Fraud, misrepresentation, or bribery in securing or renewing a license;
- (6) Fraud, misrepresentation, or false statements made in the application and investigation for, or in the course of, the applicant's business;
- (7) Violation within the preceding five years of any law relating to theft, damage or trespass to property, sale of a controlled substance, ~~or~~ operation of a business, or any other crime showing a lack of moral turpitude; or
- (8) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

(B) Penalties.

(1) Misdemeanors. A person who violates this chapter is guilty of a misdemeanor unless otherwise provided by law.

(2) Administrative civil penalties. If a licensee or an employee of a licensee is found to have violated this chapter, the City Council may impose an administrative penalty as follows:

- (a) First violation: a civil fine of \$500.00
- (b) Second violation within 12 months of another: a civil fine in the amount of \$750.00 and suspension of license for a period of ten (10) days.
- (c) Third violation within 24 months of two others: a civil fine in the amount of \$1,000.00 and suspension of license for a period of twenty (20) days.
- (d) Fourth violation within 36 months of three others: revocation of license.

(3) Presumptions regarding administrative penalties. The administrative penalties described herein are the presumed sanctions for the violations indicated. In the event of any license suspension imposed under this Section, the City Council may select which days a suspension will be served. Notwithstanding the provision contained herein, a license may be revoked for any violation of this section when in the judgment of the Council it is appropriate to do so. The city council may by resolution revised the amount of the above civil penalties. Other mandatory requirements may be made of the establishment, including but not limited to, meetings with the Police Department staff to present a plan of action to assure that the problems will not continue, mandatory education sessions with Police Department staff, or other action that the City Council deems appropriate.

(4) *Hearing.* Before the City Council may revoke or suspend a license under this chapter, it must first notify the licensee of its intention to take such action and provide the licensee the opportunity to be heard during public hearing on the matter.

Section 5. §113.35 shall hereby be amended to read as follows:

§ 110.35 RECORDS REQUIRED.

(A) *Transaction records.* At the time of any reportable transaction other than renewals, extensions, or redemptions, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

(1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item;

(2) The purchase price, amount of money loaned upon, or pledged therefor;

(3) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;

(4) The date, time, and place the item of property was received by the licensee, and the unique alpha or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;

(5) The full name, current residence address, current residence telephone ~~number~~ number, date of birth, and accurate description of the person from whom the item of property was received, including: sex, height, weight, race, color of eyes, and color of hair;

(6) The identification number and state of issue from any of the following forms of identification of the seller:

(a) Current valid driver's license of this state;

(b) Current valid identification card of this state; ~~or~~

(c) Current valid photo identification card issued by another state or province of Canada;

(d) Current valid military identification card; or

(e) Current valid passport.

(7) The signature of the person identified in the transaction;

(8) (a) Color photograph or 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 to the item; 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:

~~_____ 1. Each customer involved in a billable transaction; and~~

~~_____ 2. Every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed.~~

(b) 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. These photographs must be available to the Police Chief, or the Chief's designee, upon request. The major portion of the photograph must include an identifiable front

facial close-up of the person who pawned or sold the item. Items photographed must be accurately depicted. The licensee must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. If a video photograph is taken, the video camera must zoom in on the person pawning or selling the item so as to include an identifiable close-up of that person's face. Items photographed by video must be accurately depicted. Video photographs must be electronically referenced by time and date so they can be readily matched and correlated with all other records of the transaction to which they relate. The licensee must inform the person that he or she is being videotaped orally and by displaying a sign of sufficient size in a conspicuous place on the premises. The license must keep the exposed videotape for three months.

(9) ~~Effective 60 days from the date of notification by the Police Department,~~ Licensees must fulfill the color photograph requirements in division (A)(8) 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 division (A)(8).

(B) *Renewals, extensions, and redemptions.* For renewals, extensions, and redemptions, the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction.

(C) *Inspection of records.* The records must at all reasonable times be open to inspection by the Police Department or other city employees or agents. ~~Department of Licenses and Consumer Services.~~ 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.

Section 6. §113.36 shall hereby be amended to read as follows:

§ 113.36 DAILY REPORTS TO POLICE.

(A) *Daily reports required.* Effective no later than 60 days after the Police Department provides licensees with the most current electronic reporting and criminal investigation system ~~computerized record standards~~, licensees must submit every reportable transaction to the Police Department daily in the following manner.

(B) *Manner of report.* Licensees must provide to the Police Department all information required in §§ 113.35(A)(1) - 113.35(A)(6) and other required information, by transferring it electronically from their computer to the electronic reporting and criminal investigation system established by the Police Department ~~automated pawn system (APS) via modem~~. 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 using procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the Police Department daily.

(C) *Billable transaction fees.* Licensees will be charged an annual fee for use of the electronic reporting and criminal investigation system. ~~for each billable transaction reported to the Police Department.~~

(D) *Technical difficulties; alternative reporting methods.*

(1) If a licensee is unable to successfully transfer the required reports electronically ~~by modem~~, the licensee must provide the Police Department printed copies of all reportable transactions along with the video ~~tape(s)~~ for that date, by 12:00 noon the next business day.

(2) Until the licensee's system is corrected, the licensee must provide the required reports in division (D)(1) above, by printed copy, and resubmit all such transactions electronically ~~via modem~~ when the error is corrected.

(3) If a licensee is unable to capture, digitize, or transmit the photographs required in § 113.35(A)(8), the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the Police Department-County Sheriff upon request.

(4) Regardless of the cause or origin of the technical problem that prevented the licensee from uploading his or her reportable transactions, upon correction of the problem, the licensee shall upload every reportable transaction from every business day the problem had existed.

~~—(5) Divisions (D)(1)–(D)(3) notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.~~

Section 7. This Ordinance shall have full force and effect upon its passage and publication.

Passed by the City Council of the City of Spring Lake Park, Minnesota, this ____ day of _____ 2020.

Robert Nelson, Mayor

ATTEST:

Daniel R. Buchholtz, City Administrator/Clerk

