



## **PLANNING REPORT**

TO: Phil Kern  
FROM: Alan Brixius  
DATE: March 3, 2010  
RE: Delano – Pawn Shop Ordinance/Zoning  
FILE NO: 432.08 – 09.04

### **BACKGROUND**

Approximately one year ago, the City Council discussed the issue of pawn shops within the City. Currently, Delano's Zoning Ordinance does not distinguish pawn shops from other commercial uses, rather this use would fall within the City's general commercial definition (i.e., retail business or service business, on-site). Under these definitions, pawn shops may be permitted within each of the commercial zoning districts provided that it can secure a pawn shop business license per Section 419.01 of the Delano City Code.

Due to pawn shops' perceived association with criminal activity, cities are often wary of establishing these facilities within their community. It should be noted that through business licensing and computerized reporting with law enforcement agencies, pawn shop reputations are improving.

To allow the City to investigate possible regulations for pawn shops, the City enacted a moratorium which is now nearing its conclusion. The City Council wants the Planning Commission to discuss this topic and make recommendations on the following issues:

### **ISSUES ANALYSIS**

**Use and District.** The City Council debated as to whether the City should totally ban pawn shops or allow them in the City with regulations to insure their proper operation.

The City may elect to ban pawn shops from the community. The City of Albertville selected this option. Some of the Delano City Council members are supportive of this option as a means of avoiding the negative elements that may be associated with pawn

shop operation and protecting the City's image. Other Council members cite the similarities between pawn shops and other uses that buy and sell used goods. This may include jewelers, precious metal dealers, consignment shops, and antique dealers. Some Council members oppose a total ban for legal businesses.

Option 1 – Total Ban. If the City chooses the total ban option, the following ordinance changes would be pursued:

- Zoning amendment to Section 51.01, Subd. B, Rules and Definitions to define pawn shops.
- Zoning amendment to Section 51.20 through 51.24, commercial zoning districts, to establish a prohibited use section and list pawn shops.

Option 2 – Business Regulations. If the City chooses to allow pawn shops with regulations, the following ordinance changes should be considered:

- Zoning amendment to Section 51.01, Subd. B, Rules and Definitions, to define pawn shops.
- Zoning amendment to Sections 51.20 through 51.24, commercial zoning districts.
- The Planning Commission should identify which zoning district may be appropriate for pawn shops. Staff would recommend that the City prohibit pawn shops from the R-B, Residential Business District and the B-1, Neighborhood Business District.
- The City will need to consider whether pawn shops would be appropriate within the B-2, General Business District; B-3, Highway Business District; and the B-4, Central Business District.

**Business Licensing.** In discussions with the Wright County Sheriff's Office, they were very complimentary of the St. Michael pawn shop licensing code. In March 2009, Luke Fischer prepared a comparison between St. Michael's Code and Delano's Code (see Exhibits B and D). Changes that were suggested include:

1. Define reportable transactions to insure that we capture all items and transactions that are important to the Wright County Sheriff's Department.
2. The St. Michael business license requires a public hearing for pawn shops. This is not required in Delano. We question the need for a public hearing, recognizing that if the use is permitted and meets all City conditions, the City is obligated to approve the license. The City may not deny a license solely on public opposition.
3. Staff supports some license revocation if the business is inactive.

4. The St. Michael Code includes a 300 foot separation requirement from other uses (i.e., churches, schools, day cares). Typically this type of proximity regulation is associated with sexually oriented uses and is intended to mitigate negative secondary impacts associated with such uses. To establish these regulations, cities are required to demonstrate research and findings that these conditions exist and would occur with the establishment of said business within their community. While there is research and reports about the secondary impacts of sexually oriented uses, we haven't seen similar research on pawn shops. What is the negative secondary impact of a pawn shop on a church, school or day care? In this regard, we may address this issue better through the selection of zoning districts where pawn shops may be allowed.
5. St. Michael's Code includes architectural standards for pawn shops related to window displays, bars, or grills over windows or doors, etc. If these are concerns to pawn shops, then we should address them for all commercial uses rather than apply them exclusively to pawn shops.
6. The Delano Code should be amended to include digitized photography for all pawn shop transactions.
7. If daily reporting is preferred by the Wright County Sheriff's Department, the Delano Code should be amended for daily reporting.
8. Staff would recommend extending the pawn redemption period from 60 to 90 days similar to St. Michael.
9. St. Michael Code requires labeling of all reportable items for ease of tracking. Staff would recommend that this requirement be included in Delano's Code.

## **CONCLUSION**

The Planning Commission is requested to discuss pawn shops and their place in the community and provide recommendations for City Council and staff as to how the City should proceed in regulating this business. The Planning Commission recommendation will provide direction to staff in the formulation of new ordinance language that will be presented at a future Planning Commission meeting.

### **Attachments:**

- Exhibit A: Albertville Pawn Shop Ordinance
- Exhibit B: St. Michael Pawn Shop Ordinance
- Exhibit C: Delano Attorney's Letter
- Exhibit D: March 2, 2009 Report from Luke Fischer
- Exhibit E: Pawn Brokers License

July 24, 2008

**SUBJECT: PROHIBITION OF PAWN SHOPS**

**RECOMMENDATION:** It is respectfully requested that the Mayor and Council consider the following motion:

**Motion to adopt Ordinance Number 2008-\_\_\_\_**, relating to the prohibition of pawn shops in the B-3, Highway Commercial District; B-4, General Business District; and B-W, Business-Warehousing District and the addition of a definition of *pawn shops* and *pawnbroker* to the Definitions Section of the Zoning Ordinance.

**BACKGROUND:** The Planning and Zoning Commission met and held a public hearing on Tuesday, July 8, 2008, to consider the Zoning Ordinance amendments regarding pawn shops.

Upon review of the Planning report, City Attorney memo, and hearing no public testimony, the Planning and Zoning Commission recommended that the City Council approve the Zoning Ordinance amendment regarding the prohibition of pawn shops in the B-3, B-4, and B-W Districts and the addition of a definition of *pawn shops* and *pawnbroker* to the Definitions Section of the Zoning Ordinance.

Respectfully submitted,

Alan Brixius  
City Planner

**Attachments:** **Ordinance No. 2008 - \_\_\_\_**  
Planning Report dated July 2, 2008  
City Attorney Memo dated May 6, 2008

## CHAPTER 115: PAWN SHOPS

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### Section

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- [115.02](#) Definitions
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## § 115.01 PURPOSE.

The City Council enacts this chapter of the City Code in order to further the following:

- (A) The prevention of pawnshops from being used as facilities for the commission of crime.
- (B) The identification of criminal activities through timely collection and sharing of pawn transaction information.
- (C) The promulgation of consumer protection standards to be adhered to by the pawn industry.
- (D) To separate youth from the pawn industry.
- (E) To protect property values, prevent blight, and protect the public health, safety and general welfare.
- (F) To stabilize the city's cost of regulating the pawn industry.

(Ord. 0802, passed 3-11-08)

## § 115.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***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 is a billable transaction.

***PAWNBROKER.*** Any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or 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's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter shall be applicable.

**REPORTABLE TRANSACTION.** Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except: (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record; and (2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(Ord. 0802, passed 3-11-08)

### **§ 115.03 LICENSE REQUIRED.**

No person shall engage in the business of pawnbroker at any location without a pawnbroker license for that location. No pawnbroker license may be transferred to a different location or a different person. Issuance of a license under this chapter shall not relieve the licensee from obtaining any other licenses required to conduct business at the same or any other location.

(Ord. 0802, passed 3-11-08)

### **§ 115.04 APPLICATION REQUIRED.**

(A) *Contents.* An application form provided by the City Clerk 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 applicant.
  - (b) Whether the applicant is a citizen of the United States 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.

(e) The street address at which the applicant has lived during the preceding five years.

(f) 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.

(g) 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.

(h) 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) through (A)(1)(g).

(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, a certified copy of such certificate must be attached to the application.

(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 by-laws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, 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 divisions (A)(1)(a) through (A)(1)(g) of this section.

(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) Such other information as the City Council or issuing authority may require.

(B) *Applications.* All applications for a license under this chapter 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 such 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. Any falsification on a license application shall result in the denial of a license.

(Ord. 0802, passed 3-11-08)

#### **§ 115.05 PROCESSING OF LICENSE APPLICATION.**

(A) *Investigation.* The city's law enforcement agency must investigate the truthfulness of the statements set forth in the application for a license under this chapter and shall endorse the findings thereon. The applicant must furnish to the city's law enforcement agency such evidence as the law enforcement agency may reasonably require in support of the statements set forth in the application.

(B) *Public hearing.*

(1) *Required.* The City Council shall afford the applicant and all interested parties a public hearing.

(2) *Recommendation; publication of notice.* Within 45 days of the filing of a complete application, the city's law enforcement agency and any other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the license, setting forth the facts upon which the recommendation is based. Upon receipt of the written report and recommendation of the city's law enforcement agency and within 20 days thereafter, the city shall cause to be published in the official newspaper notice of hearing to be held by the City Council. The notice shall be published at least ten days in advance of the hearing, and it shall set forth the day, time and place when the hearing will be held, the name of the applicant, the location where the business is or will be conducted and such other information as the Council may direct.

(3) *Mailing of notice.*

(a) At least 15 days before a public hearing on an original application for a license, the city shall send by mail notice of the time, place and purpose of such hearing to all owners and occupants of property within 350 feet of the lot on which the establishment to be licensed is located.

(b) Prior to the hearing date, the City Council shall receive a list from the applicant of the names and addresses of each person to whom notice is to be sent, and certification of such list by the zoning administrator shall be conclusive evidence of such notice.

(c) The failure to give mailed notice to such owners or occupants within 350 feet, or defects in the notice, shall not invalidate a license provided a bona fide attempt to comply with this section has been made. A bona fide attempt is evidence by a notice addressed to “owner” and to “occupant” of the listed address.

(4) *Action by Council.* The City Council shall afford the applicant and all interested parties a public hearing no later than 75 days after the filing of a complete application, and shall have the discretion to consider in granting, denying, renewing, or declining to renew a license at that hearing any matter, including, but not limited to, provisions of this chapter deemed by the City Council to be relevant to protection of the public’s health, safety and welfare and minimization may be extended upon the written request of the applicant.

(5) *Notification of decision.* The city shall notify the applicant of the Council’s decision and provide a copy of the City Council action on the application.

(Ord. 0802, passed 3-11-08)

#### **§ 115.06 LICENSE ELIGIBILITY.**

No license under this chapter will be issued to an applicant who is a natural person, a partnership if such applicant has any general partner or managing partner, a corporation or other organization if such 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, subd. 2, 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, subd. 3.

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

(D) The applicant or licensee has been convicted of receiving stolen property, sale of stolen property or a controlled substance, burglary, robbery, theft, damage, or trespass to property, any law or ordinance regulating the business of pawnbroker or any other law or ordinance related to

the fitness of the applicant to operate the proposed business within the last ten years of the license application date.

(E) The applicant or licensee has had a pawnbroker license revoked within ten years of the license application date.

(F) The taxes, assessments or other financial claims of the city or the state on the licensee's business premises are delinquent and unpaid.

(G) The applicant's present license was issued conditioned upon the applicant making specified improvements to the licensed premises or the property of the licensed premises, which improvements have not been completed.

(Ord. 0802, passed 3-11-08)

### **§ 115.07 LICENSE RESTRICTIONS.**

(A) The maximum allowable number of pawnbroker licenses shall be two.

(B) Each license under this section shall be issued to the applicant only and shall not be transferable to any other person. No licensee shall loan, sell, give or assign a license to another person.

(C) The City Council may revoke the pawn license of any business that shows no pawn activity for a period of six months. A hearing shall be held to determine the status of the pawn operation and if satisfactory intent to do business under the license is not demonstrated, the City Council may revoke the license.

(D) A pawnbrokers license shall be issued only for the exact rooms and square footage of the premises described in the application.

(E) No license shall be granted until all applicable zoning requirements are met.

(Ord. 0802, passed 3-11-08)

### **§ 115.08 ISSUANCE OF LICENSE; CONDITIONS.**

All licenses are subject to the following conditions:

(A) The lot must be at least 1,000 feet from the property line of a site containing another pawnshop, currency exchange, payday loan agency, gun shop, liquor store or sexually-oriented business. In the case of a shopping center or multi-use building, the distance shall be measure from the portion of the center or building occupied by the pawnshop.

(B) The premises must be located at least 300 radial feet from a licensed day care facility, private residence, house of worship, school, playground, park, library, or other community recreational center or facility, secondhand good store, consignment house, or auction house. For the purpose of this section, measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest point of the lot containing or to contain the pawnshop, to the nearest point of the lot containing one of the mentioned uses.

(C) The operation of the licensed premises must be located in the B-1 zoning district.

(D) The pawnshop use shall not operate in conjunction with a sexually-oriented business.

(E) In-vehicle sales or services are prohibited.

(F) Fire arm transactions are prohibited.

(G) Exterior loudspeakers or public address systems are prohibited.

(H) Visibility into the store shall be maintained by utilizing clear, transparent glass on all windows and doors, by keeping all windows free of obstructions for at least three feet into the store. Product may be displayed for sale in the window as long as the display, including signage, does not occupy more than 30% of the window area.

(I) Interior and exterior bars, grills, mesh or similar obstructions, whether temporary or permanently affixed, shall not cover any exterior door or window area.

(J) Neon accents and back-lighted awnings shall be prohibited.

(Ord. 0802, passed 3-11-08)

### **§ 115.09 LICENSE FEES.**

(A) *Annual license fee.* Each application for a license shall be accompanied by payment in full of the required application fee as specified in the fee schedule as adopted by the City Council. Upon rejection of any application for a license, the city shall refund the amount paid. No other refunds shall be made.

(B) *Investigation fee.* The applicant for a new license under this chapter or for the renewal of an existing license that is more than six months past due, or a manager if other than the applicant, or a new manager, shall deposit payment in full of the required investigation fee as specified in the fee schedule as adopted by City Council to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to ensure compliance with this chapter.

(C) *Billable transaction fee.* The billable transaction license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the City Council,

and shall be reviewed and adjusted, if necessary every six months. Licensees shall be notified in writing 30 days before any adjustment is implemented. 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.

(Ord. 0802, passed 3-11-08)

#### **§ 115.10 BOND REQUIRED.**

Before a license will be issued, every applicant must submit a \$5,000 bond on the forms provided by the licensing authority. All bonds must be conditioned that the principal will observe all laws in relation to pawnbrokers, and will conduct business in conformity thereto, and that the principal will account for and deliver to any person legally entitled any goods which have come into the principal's hand through the principal's business as a pawnbroker, or in lieu thereof, will pay the reasonable value in money to the person. The bond shall contain a provision that no bond may be canceled except upon 30 days written notice to the city, which shall be served upon the licensing authority.

(Ord. 0802, passed 3-11-08)

#### **§ 115.11 RECORDS REQUIRED.**

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 city's law enforcement agency.

(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 therefore.

(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 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 Minnesota driver's license.
- (2) Current valid Minnesota 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 city's law enforcement agency 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.
- (2) 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 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 orally that he or she is being videotaped and 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 city's law enforcement agency licensees must fulfill the color photograph requirements in [§115.11\(H\)](#) 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 § 155.11(H).

(J) *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.

(K) *Inspection of records.* The records must at all reasonable times be open to inspection by the city's law enforcement agency or 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.

(Ord. 0802, passed 3-11-08)

## **§ 115.12 DAILY REPORTS TO LAW ENFORCEMENT.**

(A) Effective no later than 60 days after the city's law enforcement agency provides licensees with computerized record standards, licensees must submit every reportable transaction to the city's law enforcement agency daily in the following manner:

(1) Licensees must provide to the city's law enforcement agency all information required in § [115.10](#)(A) through (F) and other required information by transferring it from their computer to the automated pawn system 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. 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.

(B) *Billable transactions 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 printed copies of all reportable transactions along with the video tape(s) for that date by 12:00 p.m. 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 provide the required reports as detailed in § [115.12](#)(B)(1), and must be charged a \$50 reporting failure penalty, daily, until the error is corrected.

(3) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in § [115.12](#)(B)(1) 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 § [115.11](#)(I), 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 County Sheriff 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) Section [115.12](#)(B)(1) through (B)(3) notwithstanding, the city's law enforcement agency may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(Ord. 0802, passed 3-11-08)

### **§ 115.13 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 Minnesota driver's license.
  - (2) Current valid Minnesota 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 sex, approximate height, weight, race, color of eyes and color of hair.

(L) The signature of the pledger or seller.

(M) All printed statements as required by M.S. § 325J.04, subd. 2, or any other applicable statutes.

(Ord. 0802, passed 3-11-08)

#### **§ 115.14 REDEMPTION PERIOD.**

Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold during the 90 day holding period, items may not be removed from the licensed location except as provided in § [115.21](#). 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 law enforcement license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with § [115.11](#)(J).

(Ord. 0802, passed 3-11-08)

#### **§ 115.15 HOLDING PERIOD.**

Any item purchased or accepted in trade by a licensee must not be sold or otherwise transferred for 30 days from the date of the transaction. An individual may redeem an item 72 hours after the item was received on deposit, excluding Sundays and legal holidays.

(Ord. 0802, passed 3-11-08)

#### **§ 115.16 LAW ENFORCEMENT 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 with 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 division (B), whichever comes first.

(B) *Order to hold.* Whenever the County Sheriff 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 Sheriff or Sheriff's designee. The order to hold shall expire 90 days from the date it is placed unless the Sheriff or the Sheriff'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 written order from the Sheriff or Sheriff's designee; or

(2) Place the item on hold or extend the hold as provided pursuant to division (B); and leave it in the shop. When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator and the case number related to the confiscation. When an order to hold/confiscate is no longer necessary, the Sheriff or Sheriff's designee shall so notify the licensee.

(Ord. 0802, passed 3-11-08)

### **§ 115.17 INSPECTION OF ITEMS.**

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized in § [115.21](#) during normal business hours, except in an emergency for the purpose of inspecting such premises and inspecting the items, ware and merchandise and records therein to verify compliance with this chapter and other applicable laws.

(Ord. 0802, passed 3-11-08)

### **§ 115.18 LABEL REQUIRED.**

Licensee 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 city's law enforcement agency whichever is applicable and the date the item is out of pawn or can be sold, if applicable. Labels shall not be re-used.

(Ord. 0802, passed 3-11-08)

## **§ 115.19 PROHIBITED ACTS.**

(A) No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any licensee, nor may any licensee receive any goods from a person under the age of 18 years.

(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 valid driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state 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 person 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.

(Ord. 0802, passed 3-11-08)

## **§ 115.20 DENIAL, SUSPENSION OR REVOCATION.**

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

(A) The proposed use does not comply with any applicable zoning code.

(B) The proposed use does not comply with any health, building, building maintenance or other provisions of this Code of Ordinances or state law.

(C) The applicant or licensee has failed to comply with one or more provisions of this chapter.

(D) 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.

(E) Fraud, misrepresentation or bribery in securing or renewing a license.

(F) Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

(G) 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.

(H) The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

(Ord. 0802, passed 3-11-08)

#### **§ 115.21 BUSINESS AT ONLY ONE PLACE.**

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 city's law enforcement agency may approve an offsite locked and secured storage facility. The licensee shall permit inspection of the facility in accordance with § [115.17](#). All provisions of this chapter regarding record keeping and reporting apply to the facility and its contents. Property shall be stored in compliance with all provisions of the City 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 premise that extends for more than six months.

(Ord. 0802, passed 3-11-08)

#### **§ 115.22 SEPARABILITY.**

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.

(Ord. 0802, passed 3-11-08)

#### **Disclaimer:**

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## MEMORANDUM

To: Mayor, City Council Members and Phil Kern

From: Mark J. Johnson

Date: March 23, 2009

Re: Interim Ordinance Regarding Pawnshops

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At its last meeting, the City Council considered various options for the regulation of pawnshops. Three different options found support among one or more Councilmembers. There was support for maintaining the present ordinance, without substantial changes. Some Councilmembers were in favor of increased regulation, including portions of St. Michael's somewhat stricter pawnshop ordinance. Finally, there was interest in considering an outright ban of pawnshops.

I indicated that there were several issues requiring further research, especially if the Council is interested in a substantial increase in pawnshop regulation or an outright ban. Some of this additional investigation goes beyond a strictly legal review. For example, if the City wishes to prohibit pawnshops from locating close to certain other land uses, such as schools, day cares, houses of worship, etc., Alan Brixius would need to review land uses within the City and provide some recommendations. Second, the City may want to review some information regarding crime risks and lending problems relating to pawnshops. As part of this review, it may want to review the experiences of other cities and solicit input from law enforcement authorities. This kind of investigation may not only be helpful in guiding your ultimate decision, it often enhances a city's ability to defend itself against legal challenges to an ordinance such as this.

While these matters are being reviewed, the Council may want to consider adopting an "interim ordinance." Councilmember Bartels raised the possibility of such an ordinance at the meeting, and it may be a good fit for this pawnshop issue. An "interim ordinance" is authorized by Minnesota Statute §462.355, Subd. 4. This type of ordinance allows a city to restrict or prohibit a particular use while it is conducting a study of that use and considering whether to change its regulations. The interim ordinance assures the City that no pawnshop will enter the City under current rules, so long as the City is studying and considering changes to its pawnshop ordinance. An interim ordinance can be effective for up to one year, and can be extended under some circumstances.

In order to adopt an interim ordinance, it is first necessary to adopt a resolution directing the staff study. I have prepared both the resolution and ordinance for your consideration. The resolution directs City staff to study potential risks and regulations relating to pawnshops. The interim ordinance prohibits pawnshops within the City until the earlier of one year from the effective date of the study or the date when the City makes its decision about how it wants to regulate pawnshops, whichever occurs first. This one-year date can be shortened. Although this interim ordinance results in a temporary prohibition against pawnshops, it leaves open the possibility that the City may regulate pawnshops no differently than it does now, add some additional regulations, or ban them outright, depending upon the City Council's best judgment after input from staff.

Founded  
1868

Incorporated  
1876



Mayor  
Joe McDonald

Council Members  
Holly Schrupp  
Brad Hotchkiss  
Larry Bartels  
Betsy Stolfa

To: Phil Kern, City Administrator  
Mark Johnson, City Attorney  
Al Brixius, City Planner

From: Luke Fischer, Assistant to the City Administrator

Date: 3/2/2009

RE: Pawn Brokers

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In order to make sure that Delano's code addresses all of the issues associated with pawn shops, staff compared draft language in the code to the City of St. Michael's code. The Wright County Sheriff's Office recommend staff chose St. Michael's code because they currently license a pawn shop and work with the Wright County Sheriff's office. While the two documents are very similar, there are some additional requirements contained in St. Michael's code which go further than Delano's draft code.

**Reportable Transactions.** St. Michael's code outlines reportable transactions in its "Definitions" section (115.02). This section specifically addresses which items must be logged electronically with the Sheriff's Office and those which are exempt. Due to licensing differences, this section would not have to be directly adopted from St. Michael's code, but instead, clarified in Delano's.

Delano's code does not explicitly define "reportable transactions" but sets "Weekly Report Form" guidelines in Subd. 14(E). It appears that this section in Delano's code is redundant with the previous section Subd. 14(D) which could be eliminated from the recodification process.

**Public Hearing.** Section 115.02 of St. Michael's code requires that a public hearing be incorporated with the licensing of a pawn broker. This would allow for public comment on the license itself. Delano's code does not make a specific provision for a public hearing.

**Restrictions.** Section 115.07 of St. Michael's code includes a provision which gives the City Council the ability to revoke the pawn broker's license after six months of inactivity. Delano's code makes no such provision.

**Conditions.** Section 115.08 of St. Michael's code outlines nine extra conditions for license approval which Delano's code does not address. These include: proximity to another pawnshop, currency exchange, payday loan agency, gun shop, liquor store or sexually oriented business; the property must be 300 feet from a licensed day care facility, private residence, house of worship, school, playground, park, library, or other community recreational center or facility, secondhand good store, consignment house, or auction house; operation is restricted to a B-1 zoning district; pawnshop cannot be operated in conjunction with a sexually oriented business; prohibits in-vehicle services; bans exterior speakers or public address systems; sets visibility requirements including clear and transparent glass and limits window displays; restricts bars and grills over windows and doors; bans neon and black lighted awnings.

**Digital Photography.** Section 115.11(I) in St. Michael's code covers digitized photography of those using pawnshop services. Delano's code currently requires a 2"x2" photo be taken.

**Reporting.** Section 115.12 of St. Michael's code requires that the pawn broker make daily reports to the Sheriff's Office. Delano's code calls for weekly reporting.

**Redemption Period.** Section 115.14 of St. Michael's code states that pawn brokers allow a minimum of 90 days as a holding period. Delano's current code draft calls for 60 days. 90 days could allow for greater consumer protection.

**Labels.** Section 115.18 of St. Michael's code mandates that a label be affixed to each reportable item. This label must contain a reference number that matches the pawn broker's records. Delano's code does not include this item.

This list of items might be considered as the City continues to move forward with its recodification. As noted above, there may be some further differences with the two cities' codes, however these seemed to be the most substantial. Please contact me if you have any questions or need clarification on the points.



# City of Delano

## Pawn Brokers Application



### Application Information

New  Renewal

#### Official Use Only:

Date Received: \_\_\_\_\_ Amount Received: \_\_\_\_\_

Receipt Number: \_\_\_\_\_ Permit Number: \_\_\_\_\_

### Business Information

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Legal Description of Business: \_\_\_\_\_

Sole Proprietor \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_

Days and Hours of Operations: \_\_\_\_\_

Federal ID: \_\_\_\_\_ State ID: \_\_\_\_\_

### Business Manager

Business Manager Name: \_\_\_\_\_ DOB \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

### Applicant

Full Name of Applicant: \_\_\_\_\_ DOB \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Are you a US Citizen?  Yes  No If not, do you have resident alien status?  Yes  No

### Stakeholders

*Please list the name and address of all Officers and Directors or Partners:*

Name \_\_\_\_\_ Address \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

**Submittals**

The applicant must submit all of the following with this application:

- A) Certificate of survey of property indicating: 1) Legal Description; 2) all entrances to building
- B) Floor plans designating all areas where transactions are to occur
  
- C) Location and distance to nearest church, school, residence
- D) Copy of Precious Metal Dealers License, if applicable
- E) Surety bond: \$5,000 for Pawn Shop
- F) Certificate of General Liability
- G) Minnesota Tax/Workers Compensation form
- H) Criminal Background Check Authorization Form
- I) Insurance Certificate

**Applicant History – Questions apply to applicant, owner, manager, stakeholders**

Have you, your business manager, or any owners ever applied or been turned down for a similar license in any other location?  Yes  No

Please list applicable business name and location:

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Do you now or in the previous five (5) years have a similar business in any other location?

- Yes  No

Please list applicable business name and location:

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Has the applicant, within the preceding five (5) years, been convicted of any felony and/or the violation of any law relating to theft, damage or trespass to property, possession or conversion of stolen property, sale of a controlled substance, pawnshop operation, or the operation of any business?

- Yes  No

If yes, please indicate the nature of the offense:

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Does the owner, manager, or stakeholder hold an intoxicating liquor license?  Yes  No

Are all real and personal property taxes for the premises currently paid?  Yes  No

Have you had a license revoked, denied, or suspended in the past five (5) years?  Yes  No

In the course of your application for a license under Delano's General Licensing requirement, you may be asked to supply non-public data. The purpose and intended use of this data is to provide a means for the City to evaluate whether you comply with the application requirements for the general license application. You may refuse to supply the requested data, but this may result in an incomplete application which may result in your application being denied. This non-public data may be reviewed by the City of Delano, employees of the City of Delano who are assigned to review such information, and the City of Delano's legal consultant. In addition, this data may be reviewed by specific advisory boards and subcommittees of the City of Delano, who assist the City in evaluating your application. You hereby agree to release the data to those boards and subcommittees for the purpose of effectuating that review.

Failures to complete or supply any information requested within this application, or falsification of any such information will result in a delay or denial or revocation of your license and/or application.

The undersigned, an applicant for a license under the rules and regulations of the City of Delano, understands and consents to the release and use of private or confidential data, as described above and acknowledges receipt of a copy of excerpts of City Code, Chapter 4, Public Protection and General Licensing.

Also, the undersigned does hereby agree to defend, indemnify, and hold harmless, the City of Delano, its officers, employees and agents, for any and all claims, causes of action, lawsuits, losses or expenses, including reasonable attorney's fees and costs, on account of bodily injury, sickness, disease, death, and property damage as the result of any action of the undersigned.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**STATE OF MINNESOTA    )**  
**) SS**  
**COUNTY OF WRIGHT     )**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ personally appeared before me \_\_\_\_\_ and \_\_\_\_\_, who by me duly sworn, stated that he/she acknowledged and signed said document on his/her own behalf.

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Notary Public