

**CITY OF MADISON OFFICE OF
THE CITY ATTORNEY Room 401,
CCB
266-4511**

Date: January 18, 2012

MEMORANDUM

To: Maribeth Witzel-Behl, City Clerk

From: Steven Brist, Assistant City Attorney

Date: January 18, 2012

RE: Some Frequently Asked Questions about Madison's New Secondhand Ordinance

You have asked me for a short memorandum highlighting some of the changes, contained in Madison's new Secondhand Ordinance, which would be of interest to secondhand dealers. These changes take effect on February 1, 2012. This new law requires secondhand dealers to use a new electronic reporting system called "LeadsOnline" to compile and submit electronic records of secondhand transactions, on a daily basis.

1. What transactions are required to be electronically reported?

Every transaction conducted by a secondhand dealer in which an article or jewelry is received through a pawn, purchase consignment or trade must be electronically reported, subject to certain exceptions. Some of the transactions that do not need to be reported are: secondhand textbooks, bulk purchases or consignments from another merchant or a manufacturer or wholesaler and retail and wholesale sales of articles originally received by pawn or purchase for which all applicable redemption periods have expired.

2. How will electronic reporting be done?

Daily reporting will be done through an online website called "LeadsOnline". There is no fee to the merchant for the use of LeadsOnline. Merchants who are known to the City will be contacted directly by LeadsOnline to set up their account.

3. How are audio visual recording media reported?

The title, artist or author of audio tapes, compact disks, laser discs, records, videotapes, digital video disks or other similar audio or audio visual recording media need not be described on the online reporting of transactions.

4. What increases in license fees are contained in the new Ordinance?

In order to pay for additional city costs for compliance, software and the hiring of a police analyst, secondhand license fees have been increased effective February 1, 2012.

The license fee increases are:

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| Secondhand Article Dealer | from | \$75 to \$500 per year |
| Pawnbroker | from | \$300 to \$5,000 per year |

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| Secondhand jewelry dealer | from | \$75 to \$2,000 per year |
| Secondhand mall or flea market | from | \$200 to \$500 per year |
| Secondhand textbook dealer licenses | remains | \$75 per year |

A new Precious Metals Dealer license is created and the fee is \$2,000 per year.

Each individual premise requires a license. There are no temporary licenses and a temporary operation must pay the full license fee for the activity. Those businesses that currently hold licenses will see the increases for new licenses issued after June 30, 2012. Businesses without a license, who apply for a new license after February 1, will pay the new, higher license fees. The Precious Metals Dealer license takes effect on February 1, 2012. All of the license fee increases are subject to a “sunset” provision, under which the Common Council must review the increases before June 30, 2013. If the Council does not again approve the new fees, the fees will revert to the levels that existed before February 1, 2012.

Bond requirements are increased to \$5,000 for pawnshops. There are no “transaction fees” under the new ordinance

5. What are some of the Bail Amounts for Citations under the new Ordinance?

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| Failure to report transactions | \$240 |
| Serial number required | \$240 |
| Failure to record transactions | \$240 |
| Failure of licensee from other City to comply with Madison requirements | \$681 |
| False identification by seller | \$240 |
| Seller must own property sold by seller | \$240 |
| Secondhand dealer license required | \$240 |

6. What is the new precious metal dealer license?

A precious metal dealers license covers any transaction in purchasing, selling receiving or exchanging secondhand, jewelry, sterling silverware, gold or silver coins, gems, bullion or other items made in whole or in part from gold silver, platinum or any other metal, mineral or gem customarily regarded as precious or semiprecious. A holder of a Madison precious metal license does not need a separate license to buy and sell secondhand jewelry, but a secondhand jewelry dealer will need a precious metal license to buy and sell precious metals other than secondhand jewelry.

7. What photographs of sellers are required? What photograph requirements apply when serial numbers are not available for an item?

Each pawn, precious metal or secondhand jewelry transactions shall include a color photo or a color video recording of each customer pawning, pledging, consigning, exchanging or selling an item or property. Every item pawned, pledged or sold without a unique serial number, must be photographed. Photographs and video recordings must be made available to the Madison Police Department upon request.

8. How do Madison’s new rules apply to Secondhand Dealers licensed in other Wisconsin Communities?

Any merchant buying or selling precious metals must have a license issued by the City of Madison. A Secondhand Jewelry License issued by another City is not valid in Madison for the purchase or sale of precious metals.

A holder of a valid secondhand article dealer’s license or a secondhand jewelry dealer’s license issued by another Wisconsin municipality does not need to obtain those licenses from the City of Madison, but must still comply with Madison’s reporting ordinances and background investigation requirements. A licensee from another Wisconsin municipality must also file a disclosure of information form with the City Clerk and must post a \$2,000 bond which shall be for the observation of all City ordinances relating to secondhand article dealers and secondhand jewelry dealers.

9. What are the holding periods under the new ordinance before secondhand goods can be resold?

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| Articles or jewelry purchased by pawnbroker | 30 days |
| Articles purchased by secondhand jewelry dealer | 15 days |
| Articles purchased by precious metal dealers | 15 days |
| Articles purchased by secondhand article dealers (other than video games reported electronically) | 10 days |
| Video games electronically reported and purchased by secondhand article dealer | 7 days |

There is no holding period for consignment sales, coins or bullion or audio-visual media.

10. What are the recordkeeping and receipt requirements?

Every license holder must keep a record of all articles and jewelry purchased, with a detailed description. The description shall include the type of property, serial number, model number, color, description and purchase price, the date time a place the property was received and the unique alpha or numeric transaction identifier that distinguishes it from all other transactions in the dealer's records. To the extent that it is not provided as a record of the customer's identification retained by the dealer, the full name address telephone number, date of birth and accurate description of the person including sex, color of eyes and color of hair must be retained by the dealer. The identification number of the driver's license (or other identification) and state of issue must be retained. All such records must be retained for one year and must be made available at reasonable times to the Madison Police Department. In addition to the recordkeeping requirements, every secondhand dealer must provide a receipt to the customer and maintain a duplicate for one year. The receipt must include the business name, the date and time the item was received, the nature of the transaction, an accurate description of the item including any serial number, the signature of the dealer or employee, the amount paid, any interest rates if a pawn transaction, the last redemption date for pawn transactions, the full name, address, telephone number and date of birth of the customer, and the customer's signature and identification number. An identifying label must be attached to the item containing the identifier that identifies the transaction in the dealer's records.