

ORDINANCE NO. 2007-_____

AN ORDINANCE AMENDING CHAPTER 14 OF THE CITY CODE TO ADD REGULATIONS APPLICABLE TO PAWNBROKERS, PRECIOUS METAL DEALERS, COIN DEALERS AND SECONDHAND GOODS DEALERS

The City Council of the City of Bloomington hereby ordains:

Section 1. That Chapter 14 of the City Code is hereby amended to read as follows:

CHAPTER 14

LICENSES AND PERMITS

ARTICLE I. GENERAL PROVISIONS

SEC. 14.03. FEES.

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License/Permit	Required by Section	Annual Fee
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Precious Metal Dealers		
(A) Annual license	14.442.07	2,250.00
(B) Temporary license	14.442.07	405.00 1000.00
(C) <u>Registration fee</u>	14.442.07	<u>100.00</u>
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<u>Secondhand Goods Dealers</u>		
(A) <u>Annual license</u>	<u>14.442.37</u>	<u>650.00</u>
(B) <u>Occasional license</u>	<u>14.442.37</u>	<u>325.00</u>
(C) <u>Temporary license</u>	<u>14.429</u>	<u>100.00 per event</u>
(D) <u>Transaction fee</u>		
(1) <u>If Reported by Modem</u>	<u>14.442.37</u>	<u>2.00 per billable transaction</u>
(2) <u>If Reported Manually</u>	<u>14.442.37</u>	<u>4.00 per billable transaction</u>
(E) <u>Registration fee</u>	<u>14.442.07</u>	<u>100.00</u>

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ARTICLE IV. BUSINESS LICENSES AND REGULATIONS

Division M. Pawnbrokers

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SEC. 14.287. FINDINGS AND PURPOSE STATEMENT.

- (a) **Findings.** The City Council makes the following findings regarding the need to regulate pawnbrokers operating within the City:
- (1) Pawnbrokers provide an opportunity for the commission of crime and the concealment of crime, because pawnshops have the ability to receive and transfer stolen property easily and quickly.
 - (2) The pawn industry has outgrown the City's current ability to effectively and efficiently identify criminal activity related to pawnbrokers and pawnshops. The adoption of an automated pawn system will allow law enforcement officials to timely collect and share pawn transaction information more efficiently.
 - (3) Consumer protection regulation of pawn transactions is warranted in light of the potential for abuse.
 - (4) Because of the propensity of pawnbrokers to attract criminals attempting to conduct transactions involving stolen goods, pawnshops have the potential to be generally injurious to the maintenance and development of healthy, adjacent commercial, recreational and residential areas.
 - (5) To safeguard the public health, safety and welfare and to help stabilize costs associated with the regulation of the pawn industry, it is necessary to restrict the number of pawnbrokers permitted to conduct business within the community.
- (b) **Purpose Statement.** The City Council enacts this Division of the City Code in order to further the following objectives:
- (1) The prevention of pawnshops from being used as facilities for the commission of crime.
 - (2) The identification of criminal activities through timely collection and sharing of pawn transaction information.
 - (3) The promulgation of consumer protection standards to be adhered to by the pawn industry.
 - (4) To separate youth from the pawn industry.
 - (5) To protect property values, prevent blight, and protect the public health, safety and general welfare.
 - (6) To stabilize the City's costs of regulating the pawn industry.

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SEC. 14.290. LICENSE APPLICATION.

In addition to any information that may be required by the County pursuant to Minnesota Statutes, Section 471.924, every application for a license under this Division shall be made on a form supplied by the Issuing Authority and shall contain the following information:

- (1) **Individual Applicants.** 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 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 where used.
 - (c) 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 Minnesota Statutes, Section 333.01.
 - (d) The street addresses at which the applicant has lived during the preceding five (5) years.
 - (e) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) 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 shall furnish information as to the time, place, and offense for which convictions were had.
 - (g) The physical description of the applicant.
 - (h) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
- (2) **Partnership Applicants.** 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 subpart (1) of this Section.
 - (b) The name(s) of the managing partner(s) and the interest of each partner in the pawnbroker 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 Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.
 - (d) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
- (3) **Corporate Applicants.** 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 Minnesota Statutes, Section 303.06, shall be attached.
 - (c) The name of the store or general manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.
 - (d) A list of all persons who control or own an interest in excess of five (5) percent in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subpart (1) above.
- (4) **All Applicants.** For all applicants:
- (a) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from the City or any other governmental unit and whether the applicant is licensed under either Minnesota Statutes, Section 471.924, or Minnesota Statutes, Sections 325F.731-325F.744.
 - (b) Whether the applicant or any individual, partner, corporate officer having an ownership interest in the business has previously had a pawnbroker, precious metal dealer, or secondhand goods dealer license denied, revoked or suspended by any governmental unit, identifying that governmental unit. [~~has previously been denied a pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit.~~]
 - (c) The location of the business premises.
 - (d) The legal description of the premises to be licensed.
 - (e) 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.
 - (f) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City of Bloomington Building and Inspection Division, no plans need be submitted with the Issuing Authority.
 - (g) Such other information as the City Council or Issuing Authority may require.
 - (h) The applicant's hours of operation, on-site management and parking facilities;
 - (i) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the individuals, partners and corporate officers having an interest in the business;
 - (j) Proof of Workers' Compensation Insurance as required by Minn. Stat. §176.182 and the applicant's Minnesota business tax identification number, as required by Minn. Stat. §270.72.
 - (k) The names and addresses of all persons, other than the applicant, who have any ownership, in whole or in part, in the business, buildings, premises, fixtures, furniture, stock in trade to be licensed; the nature of such ownership; the amount thereof; and terms for payment or other reimbursement. Those with an ownership shall include, but not be limited to, any lessees, lessors, mortgagees,

mortgagors, lenders, lien holders, trustees, trustors and persons who have cosigned notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant.

- (l) The website and electronic mail address for the business and each of the individuals, partners, and corporate officers having an interest in the business.

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SEC. 14.291. LICENSE FEES.

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(b) **Investigation Fee.**

- (1) An applicant for any license under this Division shall deposit with the Issuing Authority at the time an original application is submitted, \$1,500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division.
- (2) If the investigation and verification process is conducted solely within the State of Minnesota, the fee shall be \$500, and the remainder of the deposit shall be returned to the applicant. If the investigation and verification process is conducted outside the State of Minnesota, the Issuing Authority may recover the actual investigation costs not exceeding \$1,500.
- (3) At any time that an additional investigation is necessary because of a change of the managing partner, store or general manager, proprietor or other person in charge of the licensed premises of its corporate structure, the licensee shall pay an additional nonrefundable investigation fee of \$100.00.

SEC. 14.294. LICENSE APPLICATION CONSIDERATION AND BOND REQUIRED.

- (a) The initial application for a license under this Division shall be presented to the City Council for consideration after the Issuing Authority has verified the information on the initial license application and conducted any investigation, including a criminal background check, to assure compliance with this Division. The hearing before the City Council shall be advertised at least ten (10) days prior to the scheduled date of the hearing. The City Council may accept or deny the license application at such public hearing. Renewal applications shall be governed by Section 14.298 of this Code.
- If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.
- (b) **Bond Required.** Before a new license will issue or upon the renewal of an existing license after the effective date of this amendment to City Code, every applicant must submit a ten thousand dollar (\$10,000.00) bond on the forms provided by the Issuing Authority. The bond must be maintained so long as the pawnbroker does business and shall be for the benefit of the City or any person suffering damage through the actions of the pawnbroker in violation of this Code or other applicable laws. The bond by its terms shall not be terminable without one hundred eighty (180) day advance notice to the City and must be conditioned upon the applicant's observation of all laws relating to pawnbrokers and the applicant's ability to conduct business in conformity therewith. The bond must also ensure that the applicant will pay to the City, when due, all taxes, license fees, penalties and other charges provided by law. Additionally, in the event of a violation of any law relating to the business for which the license has been granted, the bond shall be forfeited to the City and distributed first for the payment of all of the City's costs relative to the law violation, taxes, fees and penalties, those funds remaining shall be held for a period of one year for the purpose of victim compensation on a pro rata basis, all funds remaining after victim compensation shall be directed to the City's general fund.

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SEC. 14.295. PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

- (a) **Individuals Ineligible.** No original or renewal license under this Division shall be issued to an applicant who is a natural person if such applicant:

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(8) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.

(b) **Partnership Ineligibility.** No original or renewal license under this Division shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner:

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(9) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.

(c) **Corporate and Association Ineligibility.** No original or renewal license under this Division shall be issued to an applicant that is a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed:

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(8) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license application is submitted to the Issuing Authority.

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(d) **Locations Ineligible.** The following locations shall be ineligible for a license under this Division:

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(3) **Proximity to Sensitive Uses.** No license shall be granted to any location within 500 feet of a school, City-owned athletic playfield, publicly-owned park, playfield, recreational area or open space. In the case of a school or playfield facility, the distance shall be measured in a straight line without regard to intervening structures or objects from the lot on which the establishment to be licensed is located to the nearest point of the lot on which the school or playfield is located. A location for which a license was lawfully granted prior to 2007, and at which a licensee has been in continuous operation, is not ineligible for a license by reason of proximity to a school or playfield facility.

(4) **Limitation on Number of Licenses Issued.** No license shall be granted when the issuance thereof would increase the number of such licenses outstanding and in force at that time to more than one per each fifty thousand (50,000) inhabitants or fraction thereof residing in the City according to the most recent U.S. Census data. A location for which a license was lawfully granted prior to 2007, and at which a licensee has been in continuous operation, is not ineligible for a license by reason of this restriction. However, this Section of Code shall not be construed to vest in any licensee the right to hold a semi-exclusive license in that the City Council reserves the right, by properly adopted ordinance, to increase the number of licenses at any time.

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SEC. 14.295.01. LICENSE RESTRICTIONS.

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(b) **Retention of Records.** ~~[The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three (3) years. These records shall be a correct copy of the entries made of the pawned transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of pawn items.]~~ At the time of the licensee's receipt of pledged or purchased goods within the limits of the City of Bloomington or outside the City limits when those goods are intended for sale, held for sale or offered for sale on the licensed premises, the licensee shall immediately record, using the English language, in an indelible ink or other indelible medium, in a book or journal, which has page numbers that are pre-printed, or in a computerized record approved by the Issuing Authority, the following information:

- (1) an accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on such item;
- (2) the nature of the transaction, such as pawn, trade, consignment or sale;
- (3) the amount advanced to the pledgor or purchase price paid to the seller, asking price if consigned, or value attributed to the item if accepted in trade, for each item received;
- (4) the date and time the item of property was received by the licensee;
- (5) the monthly and annual interest rates, including all pawn fees and charges;
- (6) the full name, address, telephone number, driver's license or state identification card number, physical description including sex, height, weight, race, color of eyes and color of hair and date of birth of the person from whom the item of property was received;
- (7) The last regular day of business by which the item must be redeemed by the pledgor without risk that the item will be sold and the amount necessary to redeem the pawned item on that date; and
- (8) the full name of the employee conducting the transaction.

Each item received must be separately described and recorded notwithstanding that the items may have been received from the same customer at the same time. The pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three (3) years. These records shall be a correct copy of the entries made of the pawned transactions. A pawnbroker must, upon request, provide to the appropriate law enforcement agency, license section or their designee a complete record of pawn items.

(c) **Inspection of Records.** The pawnbroker ~~[shall]~~ must make immediately available the record of all transactions during the licensee's normal business hours and at all other reasonable times for inspection by the City Police Department or Issuing Authority.

(d) **Computerized Daily Reports to Police; Exception.** At the close of each business day, the pawnbroker shall submit the information required by Section 14.295.01~~[(a)]~~ (b) of this Code to the City Police Department by transferring the information via computer modem or other approved electronic method, from the pawnbroker's computer to the automated record system and terminal specified by the Issuing Authority. Pawnbrokers who can establish to the Issuing Authority that they conduct fewer than four hundred (400) transactions a year may provide the required information in writing by twelve o'clock noon the first business day following the date of the transaction.

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(h) **Minors.** ~~The pawnbroker shall not purchase or receive personal property of any nature on deposit or pledge from any minor.]~~

Prohibited Transactions. No licensee, clerk, agent or employee thereof shall purchase or receive any personal property of any nature on deposit or pledge under the following circumstances:

- (1) Unless the property is delivered in-person by one who signs a statement attesting to be the true owner of the property and that the property is free of all claims and liens.
- (2) From any person who fails to present proper identification in the form of a current valid Minnesota driver's license, a current valid Minnesota identification card, or a current valid photo driver's license or photo identification card issued by another state or a province of Canada.
- (3) From any person under the age of eighteen (18) years.
- (4) From any person who is obviously intoxicated, chemically impaired or incompetent.
- (5) Whenever the item of property contains an altered or obliterated serial number, "Operation Identification" number or otherwise altered so as to remove, alter or obliterate a unique identifier of the property.

(i) **Inspection of Items.** The pawnbroker shall, at all times during the term of the license, allow the City Police Department or Issuing Authority to enter the premises where the pawnbroker business is located, including

all approved off-site storage facilities, during normal business hours and at all other reasonable times, ~~[except in an emergency,]~~ for the purpose inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and to verify compliance with this Division and applicable state laws.

- (j) **License Display and Signage.** A license issued under this Division must be posted in a conspicuous place in the premises for which it is used. ~~[The license issued is only effective for the compact and contiguous space specified in the approved license application.]~~ In addition, a sign must be conspicuously posted on each licensed premises stating at least the following: "TO PAWN OR SELL PROPERTY: A. YOU MUST BE AT LEAST 18 YEARS OF AGE. B. YOU MUST BE THE TRUE OWNER OF THE PROPERTY. C. THE PROPERTY MUST BE FREE OF ALL CLAIMS AND LIENS. D. YOU MUST PRESENT VALID PHOTO IDENTIFICATION. E. VIOLATION OF ANY OF THESE REQUIREMENTS IS A CRIME. F. ALL TRANSACTIONS ARE REPORTED TO POLICE DAILY.

- ~~(m) **Prohibited Goods.** No licensee under this Division shall accept any item of property which contains an altered or obliterated serial number or "Operation Identification" number or any item of property whose serial number has been removed.~~
- ~~(n) **Proper Identification.** A licensee under this Division shall not accept items of property unless the seller or pledgor provides to the pawnbroker one of the following forms of identification:~~
- ~~(1) a current, valid driver's license;~~
 - ~~(2) a current, valid Minnesota Identification Card; or~~
 - ~~(3) a current, valid photo identification issued by the state of residency of the person from whom the item was received or a province of Canada.~~
- ~~No other forms of identification shall be accepted by the pawnbroker.]~~

- ~~(om) **Photographs and Videos of Customers and Property.**~~

- ~~(pn) **Licensed Premises.** A license issued under this Division is effective only for the compact and contiguous space or premises specified in the approved license application. A separate license is required for each place of business.~~
- ~~(qo) **Change in Ownership.**~~
- ~~(rp) **Effect of Nonredemption.**~~
- ~~(sq) **Permitted Charges.**~~
- ~~(tr) **Risk of Loss.**~~
- ~~(us) **Pawning of Motor Vehicle Titles.**~~
- ~~(vt) **Label Required.**~~
- ~~(wu) **Display and Storage of Firearms.**~~
- ~~(v) **Inactive License.** Any licensed pawnbroker who fails to conduct any pawn transactions for a period of six (6) consecutive months shall be sent by the Issuing Authority a notice of hearing to show cause why the license should not be revoked by the City Council. At that hearing, the City Council shall determine the status of the pawnbroker's operations and if satisfactory proof of intent to conduct business under the license is not demonstrated by the licensee, the City Council may revoke the license.~~

SEC. 14.295.02. RESTRICTIONS REGARDING LICENSE TRANSFER.

- (a) Each license under this Division 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. A license issued under this Division is for the person and premises named on the approved license application, only at the permanent place of business designated on the license. However, upon written request, the Issuing Authority may approve an off-site, locked and secured storage facility. No transfer of a license shall be permitted from place-to-place or from person-to-person, except in the case in which an existing licensee is merely changing a business or corporate name or changing their corporate structure so long as there is no change in the ownership or control of the business or function. All licenses issued under this Division must be posted in a conspicuous place on the premises for which it issued.

- (b) A licensee under this Division must immediately notify the Issuing Authority of the following:
- (1) a change in the corporate or organization officers listed in the license application.
 - (2) any changes in the partnership agreement.
 - (3) a change of the managing partner, store or general manager, proprietor, or other person who is in charge of the licensed premises.
 - (4) any change in the ownership of an establishment licensed under this Division, including any acquisition of an interest in the partnership, corporation, or other organization by any person not identified in the license application.
- (c) When an establishment licensed under this Division is sold or transferred, the licensee shall immediately notify the Issuing Authority of the sale or transfer. If the establishment that is sold or transferred is to continue in the business of pawnbroker, the new owner must immediately apply for an appropriate license under this Division. In addition, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within twenty (20) days following the sale or transfer. The management agreement shall vest control of all of the pawnbroker's business in the existing licensee or a manager responsible to the existing licensee. The agreement shall be approved by the City Council.
- (d) A management agreement shall be required of any licensed pawnbroker whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Division until the City Council has reviewed and approved the management agreement and any amendments thereto.

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SEC. 14.295.03. OFF-SITE STORAGE FACILITY [LOCATION RESTRICTIONS].

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SEC. 14.295.07. PENALTY.

A violation of this Division shall be a misdemeanor under Minnesota law. Civil penalties shall be subject to assessment pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Article shall be construed to limit the City's other available legal remedies for any violation of the law, including without limitation, licensing sanctions, criminal, civil, and injunctive actions. In addition, violations or failure to pay civil fines may result in future license ineligibility.

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Division V. Temporary Secondhand Goods Dealers And Precious Metal Dealers

SEC. 14.420. PURPOSE.

The purpose of this Division of the City Code is to regulate temporary precious metal and secondhand goods dealers operating within the City in a manner that prevents them from being used as facilities for the commission of crime and imposes consumer protection standards on their operation within the City. It is not the intent of the City Council in enacting this Division to impose restrictions or limitations on the freedom of protected speech or expression or to burden interstate commerce.

SEC. 14.421. FINDINGS OF THE CITY COUNCIL.

The City Council of the City of Bloomington makes the following findings regarding the need to license and regulate temporary precious metal and secondhand goods dealers operating within the City of Bloomington:

- (a) Purchasers of jewelry, coins, precious gems or metals and other secondhand items and merchandise who operate within the City on a temporary basis present an opportunity for the commission of crimes similar to the permanent pawnbrokers, ~~and~~ precious metal and secondhand goods dealers regulated by the City. If unregulated, such temporary businesses have the ability to receive and transfer stolen property easily and quickly, thus hampering local law enforcement efforts.

- (b) Purchasers of jewelry, coins, precious metals and other secondhand items and merchandise who operate within the City on a temporary basis present unique consumer protection issues, because such businesses often have out-of-state addresses not easily traced by consumers.
- (c) There are greater consumer protection issues and risk of receiving stolen property with respect to temporary precious metal dealers due to the much greater intrinsic value of the merchandise, its general lack of unique identifiers and its greater liquidity. Hence a higher level of regulation is appropriate in this context.

SEC. 14.422. DEFINITIONS.

The following words and terms when used in this Division shall have the following meanings unless the context clearly indicates otherwise:

Coin Dealer – a dealer whose regular business includes the buying, selling, and trading of coins, stamped metal, monetized bullion or commercial grade ingots of gold, or silver. The coins may be legal tender or otherwise and may be made of precious metals, gold, silver or platinum.

Consignment – an agreement between a dealer and a seller that enables the dealer to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public.

Consignment House Dealer – a dealer in secondhand goods acquired by a consignment agreement.

Dealer – Any person whose regular business includes the purchase of goods, wares or merchandise for the purpose of selling them at wholesale or retail to any qualified purchaser.

Flea Market – any group of five (5) of more unrelated persons or businesses selling secondhand goods to the public from a single physical location.

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Internet Auction – the sale of merchandise on the World Wide Web, or Internet, by a person who is registered with and assigned a designated account or user name by the Internet website hosting the auction.

Item – any single physical article; however, with respect to a commonly accepted grouping of articles that are purchased as a set and have greater value as a set than the combined value of its components set if sold individually, the term “item” shall refer to the set.

Licensee – the person to whom a license is issued pursuant to this Division including any agent or employees of the person.

Licensed Premises – the premises described in the license issued by the City’s Issuing Authority.

Precious Gems – any gem that is valued for its character, rarity, beauty, or quality, including diamonds, rubies, emeralds, sapphires, or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item.

Precious Metals – silver, gold, [ø] platinum, and sterling silver, whether as a separate item or in combination, as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item’s total weight.

Precious Metal Dealer - any person engaging in the business of coin dealer or buying secondhand items containing precious metal or gems, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects. Dealers in these items shall include, without limitation, antique dealers, consignment house dealers, and auction house dealers.

Precious Metal Item – coin with a numismatic value or intrinsic value greater than its denominational value, precious gems, gold, silver, platinum, and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item’s total weight.

Receive – to purchase, accept for sale, on consignment, broker or receive in trade for an item of equal or lesser value.

Secondhand Goods Dealer – Any person whose regular business includes selling or receiving secondhand goods, including auction house dealers, consignment house dealers, flea market dealers and antique dealers, but not including used car sales involving vehicles with titles requiring registration with the Minnesota Department of Motor Vehicles under Minn. Stat. Chap. 168 or boats required to be registered with the Department of Natural Resources.

Secondhand Goods – any tangible personal property, previously owned, used, rented or leased by a person other than the dealer offering it for sale, including without limitation: electronic audio or video equipment; firearms; musical instruments; sports equipment; photographic equipment; outboard motors; inboard drives; nautical sonar or radar devices; electric, pneumatic or hydraulic powered construction or mechanical equipment or tools; computers or computer-related equipment; cellular telephones or other communication devices; jewelry;

coins; precious metals; artist signed or artist attributed original works of art and other secondhand goods or merchandise.

Temporary [~~Precious Metal~~] Secondhand Goods Dealer - any person who engages in the business of buying secondhand goods dealer ~~[items or merchandise, coins, or secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects, from the general public]~~ and who either occupies a place of business or lot as a guest, tenant-at-will, or under a lease for a period shorter than six (6) months, unless that person has occupied the place of business for more than six (6) months immediately prior to the occupancy becoming at will.

Temporary Precious Metal Dealer – any person who engages in the business of buying secondhand precious metal items from the general public and who either occupies a place of business or lot as a guest, tenant-at-will, or under a lease for a period shorter than six (6) months, unless that person has occupied the place of business for more than six (6) months immediately prior to the occupancy becoming at will.

SEC. 14.423. LICENSE OR REGISTRATION REQUIRED.

No person shall engage in, exercise or carry-on the activity of temporary precious metal or secondhand goods dealer within the City without first being duly licensed or registered in accordance with this Division.

SEC. 14.424. LICENSE EXCEPTIONS.

The following persons ~~[and transactions]~~ shall not be required to be licensed pursuant to this Division:

- (a) Pawnbrokers~~[- and]~~, precious metal or secondhand goods dealers having a current annual license pursuant to this Article of City Code and who conduct only those types of sales transactions authorized by the terms of that annual license, [licensed pursuant to this Division]. All transactions conducted by a holder of an annual license must be in conformity with all of the requirements set forth in this Division as though the dealer held a separate temporary license. This includes, without limitation, the recordkeeping, reporting, and operational requirements and restrictions set forth in this Division. Violations of this Division will result in possible suspension or revocation of the dealer's annual license.
- (b) ~~[Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.]~~
Persons conducting secondhand goods transactions exclusively under the circumstances and limitations set forth in Section 14.442.35 of this Code.
- (c) ~~[Transactions involving the purchase of photographic film, such as lithographic and x-ray film, or silver residue or flake recovered in lithographic and x-ray film processing.]~~
Persons conducting precious metal transactions exclusively under the circumstances and limitations set forth in Section 14.442.05 of this Code.
- ~~[(d) Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item.~~
- ~~[(e) Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes, Section 325F.733, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes, Section 325F.733.~~
- ~~[(f) Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of twelve (12) consecutive months.]~~

SEC. 14.425. LICENSE OR REGISTRATION APPLICATION.

An application for a license under this Division shall request the following information and be submitted to the Issuing Authority at least ~~[fourteen (14)]~~ twenty-one (21) working days before the purchasing is to commence within the City. For multiple secondhand goods dealer sales events, excluding precious metal or coin dealers, one license may be obtained by the entity organizing the event and whose name appears on the title to, or lease agreement for the premises on which the event will occur so long as each separate vendor is specifically identified as set forth in this Section and meets the eligibility requirements set forth in Section 14.430 of this Code.

(a) For individual applicants:

- (1) ~~[Name and physical description of the applicant]~~ The current full name, residential street address, temporary local street address, current permanent business address and residential and business telephone numbers of the applicant;
- (2) ~~[Complete home, temporary local, and business address of the applicant]~~ Any other names the applicant has ever used or been known by and the dates of places associated with each such name;

* * *

- (5) ~~[Name and permanent address of the firm or business on whose behalf the purchases are made, together with credentials establishing the applicant's relationship to the firm or business]~~ The full name of the business on whose behalf the purchases are made, if it is to be conducted under a designation, name or style other than the name of the applicant and a copy of the certificate of assumed name required by Minnesota Statutes, Section 333.01, together with credentials establishing the applicant's relationship to the firm or business;

- (8) The date and place of birth, ~~[and, if the applicant is of sufficient age,]~~ a state driver's license or state identification card number of the applicant; ~~[and]~~
- (9) ~~Whether or not the applicant has ever personally, or as a partner or corporate officer of a corporation or other business association had a registration or license similar to this Division's license denied, suspended or revoked by any government body within five (5) years before the application date, identifying that governmental unit;~~
- (10) The type, name and location of every business or occupation of the applicant within the preceding five (5) years and the names and addresses of the applicant's employers, partners or business associates within the preceding five (5) years; and
- (11) Whether or not the applicant has ever personally, or as a partner or corporate officer of a corporation or other business association, been denied a professional license or membership in a professional business association, had a professional license revoked or been expelled from a professional business association.

(b) **For applicants that are partnerships, corporations or associations:**

- (1) Name of the corporation or business form, and if incorporated, the state of incorporation for the applicant, including the name of each partner or officer of the organization and all information concerning each partner or officer required in subpart 1 of this Section;
- (2) Business address of the applicant, including a temporary local address, and the home address of each partner or officer;
- (3) A brief description of the proposed purchasing event, its location, and the type of merchandise to be purchased;
- (4) The dates and hours of the day during which the purchasing event will be conducted;
- (5) The last cities or other localities, not exceeding five (5), where the applicant conducted purchasing immediately preceding the date;
- (6) ~~[Whether the corporate officer, general partner, or person affiliated with the association, who is primarily responsible for the purchasing event, has been convicted of any crime other than petty traffic violations; the nature, time, and location of the offense and the punishment or penalty imposed]~~ A true copy of the partnership agreement and if the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a copy of that certificate; and
- (7) The date of birth and a state driver's license or state identification card number of the corporate officer, general partner, or person affiliated with the association, who is primarily responsible for the purchasing event.

(c) **For all applicants:**

- (1) Whether the applicant or the firm or business employing the applicant has been the subject of an investigation by a consumer protection agency, state attorney general office, better business bureau, or similar group or agency, and the dates and outcome of such an investigation.
- (2) Proof of Workers' Compensation Insurance as required by Minn. Stat. §176.182 and the applicant's Minnesota business tax identification number, as required by Minn. Stat. §270.72;
- (3) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the individuals, partners and corporate officers having an interest in the business.
- (4) Website and electronic mail address for the business and each of the individuals, partners and corporate officers having an interest in the business.

SEC. 14.427. LICENSE APPLICATION VERIFICATION.

Applications for licenses or registration under this Division shall be submitted to the Issuing Authority. The Issuing Authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant.

SEC. 14.428. LICENSE APPLICATION CONSIDERATION.

No later than [~~seven (7)~~] fourteen (14) working days after the submission of a fully completed license or registration application the Issuing Authority shall accept or deny the license or registration application in accordance with this Division. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. Where it is determined that the applicant does not qualify for a certificate of registration in lieu of licensing, the application will be processed as a license application. The written notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days of receipt of the notice by the applicant, to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within twenty (20) days of the receipt of the appeal by the Issuing Authority.

SEC. 14.429. LICENSE AND REGISTRATION FEES AND BOND.

- (a) **Application Fee.** The license or registration application fee shall be as set forth in Section 14.03 of this Code. The fee shall be paid in full before the application ~~for a license~~ is accepted. The fee paid shall be refunded in accordance with Section 14.15 of this Code.
- (b) **Bond for Temporary Precious Metal Dealers.** Before a new temporary precious metal dealer's license will issue or upon the renewal of an existing license after the effective date of this amendment to City Code, every applicant must submit a ten thousand dollar (\$10,000.00) bond on the forms provided by the Issuing Authority. The bond must be maintained for at least one hundred eighty (180) days after the conclusion of the temporary sales event. The bond shall be for the benefit of the City or any person suffering damage through the actions of the temporary precious metal dealer in violation of this Code or other applicable laws. The bond by its terms shall not be terminable without one hundred eighty (180) day advance notice to the City and must be conditioned upon the applicant's observation of all laws relating to the regulated business and the applicant's ability to conduct business in conformity therewith, specifically including the duty to provide the Bloomington Police Department with true and correct copies of all records mandated by this Division of the Code within forty-eight (48) hours of the event's conclusion. The bond must also ensure that the applicant will pay to the City, when due, all taxes, license fees, penalties and other charges provided by law. Additionally, in the event of a violation of any law relating to the business for which the license has been granted, the bond shall be forfeited to the City and distributed first for the payment of all of the City's costs relative to the law violation, taxes, fees and penalties, those funds remaining shall be held for a period of one year for the purpose of victim compensation on a pro rata basis, all funds remaining after victim compensation shall be directed to the City's general fund.
- (c) **Investigation Fee for Temporary Precious Metal Dealers.** An applicant for a temporary precious metal dealer's license under this Division shall deposit with the Issuing Authority at the time an original application is submitted five-hundred dollars (\$500.00) to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. If the investigation is conducted outside the State of Minnesota, the Issuing Authority may recover the actual costs of investigation not to exceed one-thousand five-hundred dollars (\$1500.00). Investigations shall be valid for a period of three (3) years. At any time that an additional investigation is necessary because of a change of the managing partner, store or general manager, proprietor or other person in charge of the licensed premises or its corporate structure, the licensee shall pay an additional nonrefundable investigation fee of \$100.00.
- (d) **Transaction Fee.** In addition to the application fee, a transaction fee, based upon the actual number of transactions conducted by the licensee for which a report to police is required shall be billed to the licensee and is due and payable within twenty-five (25) days after the billed date. The transaction fee shall reflect the cost of processing reportable transactions, and other regulatory expenses related to processing reportable transactions information, including the cost of participating in the automated record-keeping system. The amount of the transaction fee shall be as detailed in Section 14.03 of this Code and is dependent on the accuracy of the report and the type of medium (modem or other approved electronic method or manual) by which the daily reports are submitted to the City police department pursuant to this Division.
- (e) **Late Transaction Fees.** A licensee failing to make a transaction fee payment within twenty-five (25) days after the billed date shall be required to pay a penalty of five percent (5%) of the amount remaining unpaid. The amount of the transaction fee not timely paid, together with the penalty shall bear interest at the rate of

twelve percent (12%) per annum, from the time the transaction fee should have been paid until it is paid. Any interest and penalty shall be added to the transaction fee and be collected as part thereof. If payment of the amount due plus the five percent (5%) penalty is not paid within thirty (30) days after the due date, an additional ten percent (10%) penalty shall be imposed upon the amount due and the five percent (5%) penalty. If the delinquency continues beyond sixty (60) days, a license revocation notice may be sent and a revocation hearing may be commenced. The City Manager shall have the power to abate penalties when their enforcement would be unjust or inequitable.

SEC. 14.430. PERSONS INELIGIBLE FOR LICENSE OR REGISTRATION.

- (a) **Natural Persons.** If the applicant is a natural person, no license or registration shall be granted if the applicant:
- (1) Is not of good moral character and repute;
 - (2) Is not eighteen (18) years or older on the date the application is submitted to the Issuing Authority;
 - (3) Has been convicted of a crime that directly relates to the occupation herein licensed or registered, as defined by Minnesota Statutes, Section 364.03, Subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the occupation to which this license applies as defined by Minnesota Statutes, Section 364.03, Subdivision 3;
 - (4) Has been the subject of an investigation by a consumer protection agency, state attorney general office, better business bureau, or similar group or agency, and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business;
 - (5) ~~[Has had its license suspended or revoked by the City within three (3) years before the application date]~~ Is not the real party in interest in the business being licensed or registered;
 - (6) Has had an interest in a corporation, partnership, association, enterprise or firm that had a registration or license similar to this Division's license [suspended] denied or revoked by the City or any other government body within [three (3)] five (5) years before the application date;
 - (7) ~~[Has been denied a license by the City because of circumstances which occurred within three (3) years before the application date]~~ Owes taxes or assessments to the State, County, School District or City that are due and delinquent;
 - (8) Has violated any provision of this Division within ~~[three (3)] five (5) years~~ before the application date, or has violated any provision of this Division during the application period pending issuance of the license; or
 - (9) Has knowingly falsified or misrepresented information on the license application.
- (b) **Partnerships.** If the applicant is a partnership, no license or registration shall be granted if the general partner primarily responsible for the ~~[purchasing event]~~ conduct of the business cannot meet the requirements of Section 14.430(a), or if the partnership has been the subject of an investigation by a consumer protection agency, state attorney general office, better business bureau, or similar group or agency, and such investigation has indicated a pattern of disregard of consumer rights in the conduct of its business or has been denied a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked by any government body as a result of a violation of law within five (5) years of the date the application is submitted to the Issuing Authority.
- (c) **Corporations and Other Associations.** If the applicant is a corporation or other association, no license or registration shall be granted:
- (1) If the corporate officer or the person affiliated with the association who is primarily responsible for the ~~[purchasing event]~~ conduct of the business cannot meet the requirements of Section 14.430(a); or
 - (2) If the corporation has been the subject of an investigation by a consumer protection agency, state attorney general office, better business bureau, or similar group or agency, and such investigation has indicated a pattern of disregard of consumer rights in the conduct of its business.
 - (3) Has been denied a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked by any government body as a result of a violation of law within five (5) years of the date the application is submitted to the Issuing Authority.

SEC. 14.431. LICENSE RESTRICTIONS.

- (a) **Display of License or Certificate of Registration.** Except for those persons specified in Section 14.424, no person shall conduct a purchasing event in the City unless the person prominently displays a valid City license or certificate of registration in lieu of a license identifying the person.
- (b) **Transfer of License or Registration Prohibited.** Each license or registration under this Division shall be issued to the named applicant only and shall not be transferable to any other person. A licensee or registrant shall not transfer, loan, sell, give or assign his or her license or certificate of registration to

another person. A license or registration issued under this Division is only for the premises set forth in the approved application.

- (c) **Invalid Use of License or Registration.** A licensee or registrant shall not use a license or registration issued to someone other than that person.
- (d) **Health and Safety Hazards.** A licensee or registrant shall not purchase property in a manner that creates a health or safety hazard.
- (e) **Truthful Advertising and Statements.** A licensee or registrant shall not make untrue statements to the people contacted regarding the purchasing of goods.
- (f) **Effect of License or Certificate of Registration.** A licensee or registrant shall not make statements to the people contacted indicating or implying that the City license or registration constitutes an endorsement of their activities by the City.
- (g) **Records.** At the time of receipt of ~~[an item]~~ any precious metal item or secondhand goods within the limits of the City of Bloomington or the receipt of any precious metal item or secondhand goods by a licensee outside the City limits when those goods are intended for sale, held for sale or offered for sale on the licensed premises [property], the licensee shall immediately record, using the English language, in an indelible ink or other indelible medium, in a book or journal, which has page numbers that are pre-printed, or in a computerized record approved by the Issuing Authority, the following information:
 - (1) an accurate description of the item of property including, but not limited to its type, composition, size, color, and any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;
 - (2) the nature of the transaction, such as trade, consignment or sale;
 - (3) the purchase price, asking price if consigned, or value attributed to the item if accepted in trade, for each item received;
 - (4) the date and time the item of property was received by the licensee; and
 - (5) the full name, address, telephone number, driver's license or state identification card number, and date of birth of the person from whom the item of property was received or in the case of Internet auctions, the user account name or screen name of the seller and the auction's Internet address.
 - (6) the full name of the employee conducting the transaction.

Each item received must be separately described and recorded notwithstanding that the items may have been received from the same customer at the same time.

- ~~[(1) An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;~~
- ~~(2) The date and time the item of property was received by the licensee;~~
- ~~(3) The name, address, and date of birth of the person from whom the item of property was received.]~~

- (h) **Proper Identification.** A licensee shall not accept items of property unless the seller provides to the licensee one of the following forms of valid identification:
 - (1) a current, valid driver's license;
 - (2) a current, valid Minnesota Identification Card; or
 - (3) a current, valid photo identification issued by the state of residency of the person from whom the item was received or a province of Canada.

No other forms of identification shall be accepted by the temporary secondhand goods or precious metal dealer.

- (i) **Inspection of Records.** ~~[The licensee shall make available the information required in subpart (g) of this Section at all reasonable times for inspection by the City Police Department or Issuing Authority. The information required in subpart (g) of this Section shall also be reported to the Police Department after the purchasing event ends and shall be retained by the licensee for six (6) months.]~~ A licensee must, upon request, immediately provide to the appropriate law enforcement agency, license section, or their designees all records required by this section. Data entries must be retained for at least four (4) years from the date of transfer.
- (j) **Police Order to Hold or Confiscate Property.** Whenever the City Police Department notifies the licensee not to sell an item previously purchased by the licensee, the item shall not be sold until authorized by the City Police Department. Whenever an item is identified as stolen property or evidence of a crime, the Chief of Police or the Chief's designee may either physically confiscate and remove it from the premises or the possession of the licensee or place an order to hold on the property. When an item is confiscated, the Police Chief or the Chief's designee must provide, upon request, their badge number, name, police department telephone number and the case number relating to the confiscation. When an order to hold or

confiscate is no longer necessary in the sole determination of the Police Chief, the Chief or Chief's designee shall so notify the licensee and the property may be reclaimed.

- (k) **Automatic Holding Period.** [All items received by the licensee during a purchasing event in the City shall not be sold for seven (7) days after receipt of the item.] No item received by a licensee may be sold or transferred for a period of at least seven (7) days. An item or items for which a report to police is required by Section 14.431(u) may not be sold or transferred for at least fifteen (15) days after the date of receipt. During an item's applicable holding period, it may not be altered, modified or changed in any manner.
- (l) **Receipt.** With the exception of items purchased via Internet auction, the licensee or registrant shall provide a receipt to the seller of any item of property received, which shall include:
- (1) The name, address, and telephone number of the licensee or registrant;
 - (2) The date on which the item was received by the licensee or registrant;
 - (3) A description of the item received and amount paid to the seller in exchange for the item sold;
 - (4) The signature of the licensee, registrant or their agent; and
 - (5) The name and address of the seller.
- A duplicate of the receipt shall be kept by the licensee or registrant for at least four (4) years.
- (m) **Hours of Operation.** No licensee or registrant shall purchase items on any day of the week before 7:00 a.m. or after 10:00 p.m.
- (n) ~~**Minors.** The licensee shall not purchase or receive property of any nature from any minor.]~~
Prohibited Transactions. With the exception of purchases made via an Internet auction, no licensee, clerk, agent or employee thereof shall receive any precious metal or secondhand goods within the limits of the City of Bloomington or outside the City limits when those goods may be intended for sale, held for sale or offered for sale on the licensed premises under the following circumstances:
- (1) By mail or third-party delivery (not including items purchased via an Internet auction), unless accompanied by a fully executed Declaration of Ownership which includes:
 - (A) for individual sellers - the seller's full name, address, telephone number, and a legible photocopy of the seller's currently valid driver's license or state identification card.
 - (B) for corporate sellers – the full corporate name of the seller, corporate address, telephone and facsimile numbers, federal employer identification number or federal tax identification number, the full name of the chief executive officer of the corporation and a description of the seller's business.
 - (2) Unless the seller signs a statement attesting to be the true owner of the property and that the property is free of all claims and liens.
 - (3) From any person who fails to present proper identification in the form of a current valid Minnesota driver's license, a current valid Minnesota identification card, or a current valid photo driver's license or photo identification card issued by another state or a province of Canada.
 - (4) From any person under the age of eighteen (18) years.
 - (5) From any person who is obviously intoxicated, chemically impaired or incompetent.
 - (6) Whenever the item of property contains an altered or obliterated serial number, "Operation Identification" number or otherwise altered so as to remove, alter or obliterate a unique identifier of the property.
- (o) **Inspection of Items.** The licensee or registrant must allow the police license inspector or the inspector's designee to enter the premises where the business or event is located or business records are maintained, including off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and inspecting such premises and the items, wares, merchandise and records therein to verify compliance with this Division and other applicable laws. [shall, at all times during the purchasing event, allow the City Police Department or Issuing Authority to enter the premises where the licensee is located for the purpose of inspecting such premises, inspecting the items, ware, and merchandise therein, and/or locating items suspected or alleged to have been stolen.]
- (p) **Maintenance of Order.** The licensee or registrant under this Division shall be responsible for the conduct of the business being operated in conformity with all applicable laws and shall maintain conditions of order.
- (q) ~~**Serial Numbers.] Suspicious Property.** All registered or licensed dealers must report to the City Police any article sold or received or sought to be sold or received, if the dealer has reason to believe that the article was stolen or lost or anytime a customer attempts to sell any item of property which contains an altered, obliterated or obviously removed serial number or unique identifier. [No licensee shall accept any item of property which contains an altered or obliterated serial number or "Operation Identification" number or any item of property whose serial number has been removed.]~~

- (r) **License or Registration Period.** A license or registration shall be valid for only one (1) event, which shall be limited to a maximum of four (4) consecutive days. No person shall be granted more than four (4) such licenses or registrations in one (1) calendar year at the same location. Investigations are valid for up to three (3) years.
- (s) **Payment by Check.** Payment by a precious metal or secondhand goods dealer for the purchase of a secondhand item or precious metal item shall be made only by a check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.
- (t) **Posting of Prices; Weighing.** Every precious metal dealer shall prominently post in a conspicuous place and in letters exceeding one inch in height the minimum prices per ounce or pennyweight that are currently being paid by the dealer for precious metals and a warning notice that unless otherwise informed, the prices offered are based on the meltdown value of the precious metal, rather than the value of the item in its existing form. With the exception of coin with an intrinsic value not greater than its numismatic or denominational value, precious metal that has been assayed and is properly marked as to its weight and fineness, and gold, silver or platinum bullion coin, pPrecious metal items shall be weighed in plain sight of the prospective seller on scales approved by the State of Minnesota pursuant to state law.
- (u) **Reports to Police Required.** A report to the City police department is required for each receipt by a licensee of an item described herein inside the City limits or outside the City limits where the item is intended for sale, held for sale or offered for sale on the licensed premises. Each of the items described herein shall constitute a separate reportable transaction notwithstanding that several items may have been received from the same customer at the same time. For each reportable transaction set forth herein the licensee must mail or deliver to the City police department the information required by subparts (g) and (n) of this Section of Code within forty-eight (48) hours of the conclusion of the sales event. The information must be submitted completely and accurately in accordance with the standards and procedures established by the Issuing Authority. The licensee must display a sign of sufficient size and in a conspicuous place on the premises so as to inform all patrons that transactions are reported to the police department. All of the following types or portions of recordable transactions must be reported to the City police department in the manner set forth above. The receipt of any of the following;
 - (1) Any item with a unique identifier.
 - (2) Any item consisting of or containing precious metals or precious gems.
 - (3) Items that are artist signed or artist attributed original works of art.
 - (4) Any item for which the licensee paid one hundred dollars (\$100.00) or more in cash or other consideration, or which the licensee intends to offer for sale, or broker for two hundred dollars (\$200.00) or more.
 - (5) Any items for which the licensee paid in a series of transactions with the same individual over the course of the sales event two hundred dollars (\$200.00) or more.
- (v) **Display and Storage of Firearms.** As a condition of licensure, the dealer shall not display on the licensed premises any firearms. All firearms must be securely stored in an area that is not accessible to the general public. No firearms may be stored on the licensed premises unless or until the City police department approves the security of the premises and the manner of storage.
- (w) **Label Required.** The licensee must affix a label to every item for which a report to the City police is required under subpart (u) of this Section at the time it is received in inventory. Permanently recorded on this label must be the number or name that identifies the transaction in the licensee's records, the name of the item and the date the item can be sold. Labels must not be re-used.

SEC. 14.432. SANCTIONS FOR LICENSE VIOLATIONS.

- (a) **Suspension or Revocation.** The City Council may suspend or revoke a license or registration issued pursuant to this Division for a violation of:
 - (1) Fraud, misrepresentation, or false statement contained [~~in a license~~] the application or a renewal application.
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed or registered occupation or business.
 - (3) Any violation of this Division or state law.
 - (4) A licensee's or registrant's criminal conviction that is directly related to the occupation or business licensed or registered as defined by Minnesota Statutes, Section 364.03, subdivision 2, provided that the licensee or registrant cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed or registered occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.

- (5) Conducting the licensed or registered business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
- (b) **Notice and Hearing.** A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the license application.

SEC. 14.433. PENALTY.

A violation of this Division shall be a misdemeanor under Minnesota law. Civil penalties shall be subject to assessment pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Article shall be construed to limit the City's other available legal remedies for any violation of the law, including licensing sanctions, criminal, civil, and injunctive actions. In addition, violations or failure to pay civil fines may result in future license or registration ineligibility.

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Division X. Precious Metal Dealers

SEC. 14.442.03. PURPOSE.

The City Council finds that precious metal dealers potentially provide an opportunity for the commission of crimes and their concealment because such businesses have the ability to receive and transfer stolen property easily and quickly. The City Council also finds that consumer protection regulation is warranted in transactions involving precious metal dealers due in part to the much greater intrinsic value of this merchandise, its general lack of unique identifiers and its greater liquidity. Measures to prevent stolen property from being sold to precious metal dealers are necessitated by the fact that there are few government regulations applicable to this industry's purchase of precious metal items from the public or to effectively and efficiently identify potential criminal activity related to these businesses. An automated system of tracking merchandise and purchasing transactions will decrease and stabilize the costs associated with the regulation of this industry, and will increase the identification of criminal activities in the precious metal business. Pursuant to its authority under the City Charter and under Minnesota Statutes Section 325F.742, the City Council enacts this Division of the City Code regulating precious metal dealers. The purpose of this Division is to prevent precious metal businesses from being used as facilities for 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 City.

SEC. 14.442.04. DEFINITIONS.

The following words and terms when used in this Division shall have the following meanings unless the context clearly indicates otherwise:

Antique - any secondhand good the value of which, in whole or substantial part, is derived from its age or its historical association and exceeds the original value of the item when new.

Antique Dealer - any dealer whose regular business includes selling or receiving secondhand goods where at least ninety (90) percent of the goods on hand at all times, measured according to value, consists of antiques.

Auction House Dealer - any dealer whose regular business includes selling or receiving secondhand goods some or all of which are offered for sale for the highest bid or offer tendered. If the sale is conducted by means of an auction, the auctioneer must be properly licensed and bonded in accordance with applicable laws.

Billable Transaction – every transaction conducted by a licensee required to be reported to the City Police Department under Section 14.442.12.

Coin Dealer – a dealer whose regular business includes the buying, selling, and trading of coins, stamped metal, monetized bullion or commercial grade ingots of gold, or silver. The coins may be legal tender or otherwise and may be made of precious metals, gold, silver or platinum.

Consignment – an agreement between a dealer and a seller that enables the dealer to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public.

Consignment House Dealer – a dealer in secondhand goods acquired by a consignment agreement.

Dealer – Any person whose regular business includes the purchase of goods, wares or merchandise for the purpose of selling them at wholesale or retail to any qualified purchaser.

Flea Market – any group of five (5) of more unrelated persons or businesses selling secondhand goods to the public from a single physical location.

Issuing Authority – the City of Bloomington License Section.

Item containing precious metal – an item made in whole or in part of metal and containing more than one (1) percent by weight of silver, gold, or platinum.]

Internet Auction – the sale of merchandise on the World Wide Web, or Internet, by a person who is registered with and assigned a designated account or user name by the Internet website hosting the auction.

Item – any single physical article; however, with respect to a commonly accepted grouping of articles that are purchased as a set and have greater value as a set than the combined value of its components set if sold individually, the term “item” shall refer to the set.

Licensee – The person to whom a license is issued under this Division, including any agents or employees of the person.

Licensed Premises – the compact and contiguous premises described in the approved license issued by the City’s Issuing Authority.

Minor – any natural person under the age of eighteen (18) years.].

Person – one (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

Precious Gems – any gem that is valued for its character, rarity, beauty, or quality, including diamonds, rubies, emeralds, sapphires, or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item.

Precious Metals – silver, gold, platinum, and sterling silver, whether as a separate item or in combination, as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item’s total weight.

Precious Metal Item – coin with a numismatic value or intrinsic value greater than its denominational value, precious gems, gold, silver, platinum, and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item’s total weight.

Precious Metal Dealer - any person engaging in the business of coin dealer or buying secondhand items containing precious metal or gems, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects. [~~Persons conducting the following transactions shall not be deemed to be Precious Metal Dealers:~~] Dealers in these items shall include, without limitation, antique dealers, consignment house dealers and auction house dealers.

~~[(1) Transactions at occasional "garage" or "yard" sales, or estate sales or farm auctions held at the decedent's residence, except that precious metal dealers must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742, for these transactions.~~

~~[(2) Transactions regulated by Minnesota Statutes, Chapter 80A.~~

~~[(3) Transactions regulated by the Federal Commodity Futures Commission Act.~~

~~[(4) Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.~~

~~[(5) Transactions involving the purchase of photographic film, such as lithographic and X-ray film, or silver residue or flake recovered in lithographic and X-ray film processing.~~

~~[(6) Transactions involving coins, bullion, or ingots.~~

~~[(7) Transactions in which the secondhand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a person who is a precious metal dealer by engaging in a transaction which is not exempted by this Section must comply with the requirements of Minnesota Statutes, Sections 325F.734 to 325F.742.~~

~~[(8) Transactions between precious metal dealers if both dealers are licensed under Minnesota Statutes, Section 325F.733, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes, Section 325F.733.~~

~~[(9) Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than \$2,500 for secondhand items containing precious metals purchased within any period of twelve (12) consecutive months.~~

Precious Metals – silver, gold, or platinum.].

SEC. 14.442.05. LICENSE OR REGISTRATION REQUIRED AND EXCEPTIONS.

No person shall exercise, carry-on, or be engaged in the trade or business of precious metal dealer within the City unless such person is currently licensed or registered under this Division. Temporary events relating to precious metals must obtain a license under Division V. of this Chapter, however the exemptions from licensing and standards for registration in lieu of licensing set forth herein shall apply to both annual and temporary licenses. The following dealers may qualify for registration in lieu of licensing:

- (a) Precious metal dealers who register with the Issuing Authority and whose business plan and records clearly demonstrate on an annual and continuing basis to the satisfaction of the Issuing Authority that they acquire their merchandise exclusively by:
- (1) Sales of property from a merchant, manufacturer, wholesaler, corporate entity or government entity, having an established place of business, or goods sold at open sale from bankrupt stock, provided the dealer must maintain a record of all such transactions which includes, at a minimum, a written Declaration of Ownership setting forth:
 - (A) The seller's full corporate name, corporate address, telephone number, federal Employee Identification Number (EIN) or federal Tax Identification Number, full name of the chief executive officer of the corporation, and a description of the seller's business;
 - (B) An accurate description of each item of property that must identify them in a manner that relates to the transaction record including, but not limited to, any unique identifiers;
 - (C) A description of the nature of the transaction, such as trade, consignment or sale;
 - (D) The purchase price, asking price if consigned, or value attributed to the items if accepted in trade; and
 - (E) A signed statement by the seller that the seller is the true owner of the property or proof of their authorization from the true owner to dispose of the items, and that the property is free from all other claims or liens.
 - (2) Transactions between dealers if both dealers are licensed under Minnesota Statutes Section 325F.733 or this Division of the City Code, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes Section 325F.733 or this Division of the City Code.
- (b) Precious metal dealers who register with the Issuing Authority and whose business plan and records clearly demonstrate on an annual and continuing basis to the satisfaction of the Issuing Authority that the business exclusively conducts one or more of the following transactions:
- (1) Transactions regulated by Minnesota Statutes, Chapter 80A.
 - (2) Transactions regulated by the Federal Commodity Futures Commission Act.
 - (3) Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.
 - (4) Transactions involving the purchase of photographic film, such as lithographic and X-ray film, or silver residue or flake recovered in lithographic and X-ray film processing.
 - (5) Transactions involving coin with intrinsic or numismatic values not greater than its denominational value.
 - (6) Transactions involving gold, silver or platinum that has been assayed and is properly marked as to its weight and fineness.
 - (7) Transactions involving gold, silver or platinum bullion coin.

SEC. 14.442.06. LICENSE OR REGISTRATION APPLICATION.

In addition to any information that may be required by the County pursuant to Minnesota Statutes Section 471.924 or Minnesota Statutes Section 325F.733, every application for a license or registration under this Division shall be made on a form supplied by the Issuing Authority and shall contain the following information:

~~(4)~~(a) **Individual Applicants.** If the applicant is a natural person:

- ~~(A)~~(1) The name, ~~[place and date of birth,]~~ street resident address, and telephone number of the applicant.
- ~~(B)~~(2) Whether the applicant has ever used or has been known by a name other than the applicant's current name, and if so, the name or names used and information concerning dates and places ~~[where used]~~ associated with each such name.
- ~~(C)~~(3) 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 Minnesota Statutes, Section 333.01.
- ~~(D)~~(4) The home and business street addresses of ~~[at which]~~ the applicant for ~~[has lived during]~~ the preceding five (5) years.

~~(E)~~(5) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding five (5) years.

~~(F)~~(6) 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 shall furnish information as to the time, place, and offense for which convictions were had.

(7) The place and date of birth, state driver's license or state identification number of the applicant.

~~(2)~~(b) **Partnership Applicants.** If the applicant is a partnership:

~~(A)~~(1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in subpart (1) of this Section.

~~(B)~~(2) The name(s) of the managing partner(s) and the interest of each partner in the precious metal dealer business.

~~(C)~~(3) 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 Minnesota Statutes Section 333.01, a ~~certified~~ copy of such certificate shall be attached to the application.

~~(3)~~(c) **Corporate Applicants.** If the applicant is a corporation or other organization:

~~(A)~~(1) The name of the corporation or business form, and if incorporated, the state of incorporation.

~~(B)~~(2) A true copy of the Certificate of Incorporation shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.

~~(C)~~(3) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all information concerning each manager, proprietor, or agent required in subpart (1) of this Section.

~~(D)~~(4) A list of all persons who control or own interest in excess of five percent (5%) in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in subpart (1) above.

~~(4)~~(d) **All Applicants.** For all applicants:

~~(A)~~(1) Whether the applicant holds a current precious metal dealer license from any other governmental unit and whether the applicant is licensed under either Minnesota Statutes Section 471.924, or Minnesota Statutes Sections 325F.731-325F.744.

~~(B)~~(2) Whether the applicant or any individual, partner, corporate officer having an ownership interest in the business has previously had a pawnbroker, precious metal dealer or secondhand goods dealer license denied, revoked by [been denied a precious metal dealer license from any] other governmental unit, identifying that governmental unit.

~~(C)~~(3) The location of the business premises.

~~(D)~~(4) The legal description of the premises to be licensed or registered.

~~(E)~~(5) Whether all real estate and personal property taxes that are past due and payable for the premises to be licensed or registered have been paid, and if not paid, the years and amounts that are unpaid.

~~(F)~~(6) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans or design are on file with the City of Bloomington Building and Inspection Division, no plans need be submitted with the Issuing Authority.

~~(G)~~(7) ~~[Such other information as the City Council or Issuing Authority may require.]~~ If the applicant does not own the business premises, a true and complete copy of the current executed lease.

(8) The location at which the applicant's business records are maintained.

(9) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any governmental unit, identifying the location of all other licensed premises and whether the applicant is licensed under Minnesota Statutes Sections 471.924 or 325F.731-744.

(10) The applicant's hours of operation, on-site management and parking facilities.

(11) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of the individuals, partners and corporate officers having an interest in the business.

(12) Proof of Worker's Compensation Insurance as required by Minn. Stat. §176.182 and the applicant's Minnesota business tax identification number as required by Minn. Stat. §270.72.

(13) Website and electronic mail address for the business, individuals, partners and corporate officers having an interest in the business.

(14) Such other information as the City Council or Issuing Authority may require.

SEC. 14.442.07. LICENSE AND REGISTRATION FEES.

(a) Application Fee.

- (1) The license or registration application fee shall be as set forth in Section 14.03 of this Code. The fee paid shall be refunded in accordance with Section 14.15 of this Code, except that the fee shall be refunded on a monthly basis.
- (2) The [~~license~~]application fee shall be paid in full before the application [~~for a license~~] shall be accepted. Upon rejection of any application for [~~a license~~] or upon withdrawal of any application before City Council approval, the [~~license~~] fee shall be refunded in full to the applicant except where rejection is for a willful misstatement in the [~~license~~] application.
- (3) When the license or registration is for a premises where the building is not ready for occupancy, the time fixed for computation of the [~~license~~] fee for the initial license or registration period shall be ninety (90) days after approval of the license by the City Council or approval of the registration by the Issuing Authority or upon the date the building is ready for occupancy, whichever is sooner.
- (4) When a new [~~license~~] application is submitted as a result of incorporation by an existing licensee or registrant and the ownership, control, and interest in the license or registration are unchanged, no additional fee shall be required.

(b) Investigation Fee.

- (1) An applicant for any license under this Division shall deposit with the Issuing Authority at the time an original application is submitted, \$1,500 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division.
- (2) If the investigation and verification process is conducted solely within the State of Minnesota, the fee shall be \$500, and the remainder of the deposit shall be returned to the applicant. If the investigation and verification process is conducted outside the State of Minnesota, the Issuing Authority may recover the actual investigation costs not exceeding \$1,500. At any time an additional investigation is necessitated because of a change of the managing partner, store or general manager, proprietor or other person in charge of the licensed premises or its corporate structure, the licensee shall pay an additional, nonrefundable fee of \$100.00.

(c) Transaction Fee. In addition to the annual license application fee, a transaction fee, based upon the actual number of billable transactions conducted by the licensee, shall be billed monthly to the licensee and is due and payable within twenty-five (25) days after the billed date. The transaction fee shall reflect the cost of processing reportable transactions and other regulatory expenses related to processing reportable transaction information, including the cost of participating in the automated record-keeping system. The amount of the transaction fee shall be as detailed in Section 14.03 of this Code and is dependent on the accuracy of the report and the type of medium (electronic or manual) by which the daily reports are submitted to the City police department pursuant to this Division.

(d) Late Transaction Fees. A licensee failing to make a transaction fee payment within twenty-five (25) days after the billed date shall be required to pay a penalty of five percent (5%) of the amount remaining unpaid. The amount of the transaction fee not timely paid, together with the penalty shall bear interest at the rate of twelve percent (12%) per annum, from the time the transaction fee should have been paid until it is paid. Any interest and penalty shall be added to the transaction fee and be collected as a part thereof. If payment of the amount due plus the five percent (5%) penalty is not paid within thirty (30) days after the due date, an additional ten percent (10%) penalty shall be imposed upon the amount due and the five percent (5%) penalty. If the delinquency continues beyond sixty (60) days, a license revocation notice may be sent and a revocation hearing may be commenced. The City Manager shall have the power to abate penalties when their enforcement would be unjust or inequitable.

(e) Electronic Reporting Problems. Licensees shall report to the City police department transactions by modem or other approved electronic method, except as otherwise allowed in this Division. If a licensee is unable to successfully transfer the required reports by approved electronic method, the licensee shall have on the premises and available for inspection by the City police department printed copies of all reportable transactions that have not been reported by the approved electronic method. If the modem or electronic communication failure 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 in a paper or other computerized format as approved by the City police department. The licensee shall take all reasonable steps including the replacement of its computer system and related components in order to return the electronic reporting system to operational condition as soon as reasonably possible.

(f) Erroneously Reported Transaction Penalty. Daily reports required to be submitted to the City police department pursuant to Section 14.442.13 must accurately report the information required by Section 14.442.12 (c). If a licensee submits a daily report, by modem or other approved electronic method, containing any omission or inaccuracy in the required information, then each transaction containing an

omission or inaccuracy will be classified as erroneous. Licensees who submit five (5) or more erroneous transactions within a billable month shall be charged at the rate of a manually reported transaction for each such erroneous transaction during that billable month.

SEC. 14.442.08. LICENSE OR REGISTRATION APPLICATION EXECUTION.

All applications for a license or registration under this Division shall be signed. If the application is that of a natural person, it shall be signed 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.

SEC. 14.442.09. LICENSE OR REGISTRATION APPLICATION VERIFICATION.

All applicants shall be referred to the Issuing Authority for verification and investigation of the facts set forth in the application. The Issuing Authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The Issuing Authority shall make a written report and recommendation to the City Council as to issuance or nonissuance of the initial license application. The City Council may order and conduct such additional investigation as it deems necessary. The Issuing Authority shall make the determination as to whether or not the applicant qualifies for a certificate of registration in lieu of licensing. Where it is determined that the applicant does not qualify for registration in lieu of licensing, upon the applicant's payment of the difference between the registration fee and the appropriate license fee, as well as the investigation fee, the application will be processed as a license application.

SEC. 14.442.10. LICENSE APPLICATION CONSIDERATION AND BOND REQUIRED.

- (a) **Consideration.** The initial application for a license under this Division shall be presented to the City Council for consideration after the Issuing Authority has verified the information on the initial license application and conducted any investigation, including a criminal background check, to assure compliance with this Division. The hearing before the City Council shall be advertised at least ten (10) days prior to the scheduled date of the hearing. The City Council may accept or deny the license application at such public hearing. Renewal applications shall be governed by Section 14.546]442.15 of this Code. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.
- (b) **Bond Required.** Before a new license will issue or upon the renewal of an existing license after the effective date of this amendment to City Code, every applicant must submit a ten thousand dollar (\$10,000.00) bond on the forms provided by the Issuing Authority. The bond must be maintained so long as the precious metal dealer does business and shall be for the benefit of the City or any person suffering damage through the actions of the licensee in violation of this Code or other applicable laws. The bond by its terms shall not be terminable without one hundred eighty (180) day advance notice to the City and must be conditioned upon the applicant's observation of all laws relating to precious metal dealers and the applicant's ability to conduct business in conformity therewith. In the case of a group bond covering multiple precious metal dealers, the bond must be by its terms automatically replenished in the case of a forfeiture of or draw on the bond. The bond must also ensure that the applicant will pay to the City, when due, all taxes, license fees, penalties and other charges provided by law. Additionally, in the event of a violation of any law relating to the business for which the license has been granted, the bond shall be forfeited to the City and distributed first for the payment of all of the City's costs relative to the law violation, taxes, fees and penalties, those funds remaining shall be held for a period of one year for the purpose of victim compensation on a pro rata basis, all funds remaining after victim compensation shall be directed to the City's general fund.
- (c) **Higher Bond Required in Lieu of Holding Period.** At the licensee's option, a bond in the amount of fifty thousand dollars (\$50,000.00) may be substituted for the bond required in subdivision (b) of this Section of Code. By the posting and maintenance of the higher bond in accordance with the terms of this Section, the licensee will be exempt for the automatic holding period set forth in 14.442.13 (a).

SEC. 14.442.11. PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE OR REGISTRATION.

- (a) **Individuals Ineligible.** No license or registration in lieu of licensing under this Division shall be issued to an applicant who is a natural person if such applicant:
- (1) Is not eighteen (18) years of age or older on the date the [~~license~~] application is submitted to the Issuing Authority;
 - (2) Has been convicted of any crime directly related to the occupation licensed or registered as prescribed by Minnesota Statutes Section 364.03, subdivision 2, and has not shown competent

evidence of sufficient rehabilitation and present fitness to perform the duties of a precious metal dealer as prescribed by Minnesota Statutes Section 364.03, subdivision 3;

- (3) Is not of good moral character or repute;
- (4) Holds an intoxicating liquor license under Sections 13.38-13.57 of this Code;
- (5) Has knowingly falsified or misrepresented information on the license application;
- (6) Is not the real party in interest in the business being licensed or registered;
- (7) ~~[Owes taxes or assessments to the State, County, School District, or City that are due and delinquent.]~~ Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked by any governmental body as a result of a violation of law within five (5) years of the date the application is submitted to the Issuing Authority; or
- (8) Owes taxes or assessments to the State, County, School District, or City that are due and delinquent.
- (9) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business.

(b) **Partnership Ineligibility.** No license or registration under this Division shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner who cannot meet the requirements of Section 14.442.11(a), or if the partnership:

- ~~(1) Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;~~
- ~~(2) Who has been convicted of any crime directly related to the occupation licensed or registered as prescribed by Minnesota Statutes Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a precious metal dealer as prescribed by Minnesota Statutes Section 364.03, subdivision 3;~~
- ~~(3) Who is not of good moral character or repute;~~
- ~~(4) Who holds an intoxicating liquor license under Sections 13.38-13.57 of this Code;~~
- ~~(5) Who has knowingly falsified or misrepresented information on the license application;~~
- ~~(6) Who is not the real party in interest in the business being licensed; or~~
- ~~(7) Who owes taxes or assessments to the State, County, School District, or City that are due and delinquent.]~~
- (1) Had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the application is submitted to the Issuing Authority;
- (2) Owes taxes or assessments to the State, County, School District, or City that are due and delinquent; or
- (3) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business.

(c) **Corporate and Association Ineligibility.** No license or registration in lieu of licensing under this Division shall be issued to an applicant that is a corporation or other organization if such applicant has any manager, proprietor, or agent in charge of the business to be licensed who cannot meet the requirements of Section 14.442.11(a), or if the corporation:

- ~~(1) Who is not eighteen (18) years of age or older on the date the license application is submitted to the Issuing Authority;~~
- ~~(2) Who has been convicted of any crime directly related to the occupation licensed or registered as prescribed by Minnesota Statutes Section 364.03, subdivision 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a precious metal dealer as prescribed by Minnesota Statutes Section 364.03, subdivision 3;~~
- ~~(3) Who is not of good moral character or repute;~~
- ~~(4) Who holds an intoxicating liquor license under Sections 13.38-13.57 of this Code;~~
- ~~(5) Who has knowingly falsified or misrepresented information on the license application;~~
- ~~(6) Who is not the real party in interest in the business being licensed or registered; or~~
- ~~(7) Who owes taxes or assessments to the State, County, School District, or City that are due and delinquent.]~~

- (1) Has had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the application is submitted to the Issuing Authority;
 - (2) Owes taxes or assessments to the State, County, School District, or City that are due and delinquent; or
 - (3) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business.
- (d) Locations Ineligible. The following locations shall be ineligible for a license or registration under this Division:
- (1) Claims Due. No license or registration shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the State, County, School District, or City are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes Section 278.01-278.13, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.
 - (2) Improper Zoning. No license or registration shall be granted if the property is not properly zoned for precious metal dealers under Chapter 19 of this Code, unless the business is a legal, nonconforming use.

SEC. 14.442.12. [~~LICENSE RESTRICTIONS~~] RECORD KEEPING AND REPORTING REQUIREMENTS.

- (a) **Exempt Transactions.** The following items, when received by a licensee, are exempt from the recording and reporting requirements of this Division, regardless of the purchase price paid by the licensee, asking price if consigned or brokered, or value attributed to it if accepted in trade:
- (1) A sale of property from a merchant, manufacturer, wholesaler, corporate entity or government entity, having an established place of business or goods sold at open sale from bankrupt stock provided the licensee must maintain a record of all such transactions which includes a written Declaration of Ownership that includes at a minimum the following:
 - (A) The seller's full corporate name, registered address, telephone number and federal Employee Identification Number ("EIN") or tax identification number, the full name of the chief executive officer, and a description of the seller's business.
 - (B) An accurate description of each item of property that must identify the item in a manner that relates to the transaction record including any unique identifier.
 - (C) A description of the nature of the transaction, such as trade, consignment or sale.
 - (D) The purchase price, asking price if consigned or value attributed to the item if accepted in trade.
 - (E) A signed statement by the seller attesting that the seller is the true owner of the property, or proof of their authorization from the true owner to dispose of the items, and that the property is free from all other claims or liens.
 - (2) Retail and wholesale sales of merchandise by the licensee originally received through a reportable transaction and for which all applicable hold periods have expired.
- (b) **Records.** At the time of a licensee's receipt of any precious metal item within the limits of the City of Bloomington or the receipt of any precious metal item by a licensee outside the City limits when those goods are intended for sale, held for sale or offered for sale on the licensed premises, the licensee shall immediately record, using the English language, in an indelible ink or other indelible medium, in a book or journal, which has page numbers that are pre-printed, or in a computerized record approved by the Issuing Authority, the following information:
- (1) an accurate description of the item of property including but not limited to its type, composition, size, color, and any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;
 - (2) the nature of the transaction, such as trade, consignment or sale;
 - (3) the purchase price, asking price if consigned, or value attributed to the item if accepted in trade, for each item received;
 - (4) the date and time the item of property was received by the licensee; and
 - (5) the full name, address, telephone number, driver's license or state identification card number, and date of birth of the person from whom the item of property was received, or in the case of Internet auctions, the user account name or screen name of the seller and the auction's Internet address.
 - (6) the full name of the employee conducting the transaction.

Each item received must be separately described and recorded notwithstanding that the items may have been received from the same customer at the same time. A licensee must upon request immediately provide to the appropriate law enforcement agency, license section or their designees all records required under this Division. Data entries must be retained for at least four (4) years from the date of the transaction.

- (c) **Customer Receipt.** The licensee or registrant must provide a receipt to every person from whom an item of property is received, with the exception of items purchased via Internet auction, and shall maintain a duplicate of that receipt for four (4) years. The receipt shall include the name, address and telephone number of the licensee or registrant, a description of the item received and amount paid to the seller therefore and such other information necessary to enable the police department to identify the transaction, and every item related to it, in the licensee's records.
- (d) **Daily Reports to Police Required.** A report to the City police department is required for each receipt by a licensee of an item described herein inside the City limits or outside the City limits where the item is intended for sale, held for sale or offered for sale on the licensed premises. Each of the items described herein shall constitute a separate reportable transaction notwithstanding that several items may have been received from the same customer at the same time. For each reportable transaction set forth herein, at the close of each business day, the licensee must submit to the City police department the information required by this Section of Code. The information must be submitted completely and accurately via computer, modem or other approved method of electronic submission from the licensee's computer to the automated record system and terminal specified by the Issuing Authority in accordance with the standards and procedures established by the Issuing Authority. Precious metal dealers who can establish to the Issuing Authority that they conduct no more than 200 reportable transactions per year may provide the required information in writing by twelve o'clock noon the first business day following the date of the transaction. The licensee must display a sign of sufficient size and in a conspicuous place on the premises so as to inform all patrons that transactions are reported to the police department daily. All of the following types or portions of recordable transactions must be reported to the City police department in the manner set forth above:
- (1) Any item with a unique identifier.
 - (2) Any item consisting of precious metals or precious gems.
 - (3) Items that are artist signed or artist attributed original works of art.
 - (4) Any item for which the licensee paid five hundred dollars (\$500.00) or more in cash or other consideration.
- (e) **Special Report to Police Required.** A report to the City police department must be made within twenty-four (24) hours of that point where a licensee has received from the same seller in a series or transactions within a six (6) month period merchandise for which the licensee paid five hundred dollars (\$500.00) or more.
- ~~(a) **Recordkeeping.** At the time of a receipt of an item of property the precious metal dealer shall immediately record, using the English language, on computer disc or in a book or journal which has page numbers that are preprinted and in an indelible ink, the following information:~~
- ~~(1) An accurate description of the item of property including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such item;~~
 - ~~(2) The date and time the item of property was received by the precious metal dealer;~~
 - ~~(3) The name, address, and date of birth of the person from whom the item of property was received and the type of identification and serial number of the identification presented by the seller.~~
- ~~(b) **Inspection of Records.** The precious metal dealer shall make available the information required in subpart (a) of this Section at all reasonable times for inspection by the City Police Department or Issuing Authority. The information required in subpart (a) of this Section shall be retained by the precious metal dealer for at least four (4) years.~~
- ~~(c) **Items for Which Daily Reports to Police are Required.** The precious metal dealer shall complete forms approved by the City Police Department or Issuing Authority and send the forms daily to the City Police Department for precious jewelry, gems, and metals.~~
- ~~(d) **Daily Report Forms.** The daily report forms submitted to the City Police Department shall contain the following information:~~
- ~~(1) An accurate description of the item of property;~~
 - ~~(2) The price of the item paid by the precious metal dealer;~~
 - ~~(3) The date, time, and place of receipt of the item;~~

- (4) ~~The name, address, and date of birth of the person from whom the item was received;~~
- (5) ~~The identification number from on the following forms of identification of the person from whom the item was received:

 - (i) ~~A current valid driver's license;~~
 - (ii) ~~A current valid Minnesota Identification Card; or~~
 - (iii) ~~A current valid photo identification issued by the state of residency of the person from whom the item was received or a province of Canada.~~~~
- (c) ~~**Police Order to Hold Property.** Whenever the City Police Department notifies the precious metal dealer not to sell an item, the item shall not be sold or removed from the licensed premises until authorized to be released by the City Police Department.~~
- (f) ~~**Receipt.** The precious metal dealer shall provide a receipt to the seller of any item of property received, which shall include:

 - (1) ~~The name, address, and phone number of the precious metal dealer business.~~
 - (2) ~~The date on which the item was received by the precious metal dealer.~~
 - (3) ~~A description of the item received and amount paid to the seller in exchange for the item sold.~~
 - (4) ~~The signature of the precious metal dealer or agent.~~
 - (5) ~~The name and address of the seller.~~~~
- (g) ~~**Hours of Operation.** No precious metal dealer shall keep the precious metal dealer business open for the transaction of business any day of the week before 7:00 a.m. or after 10:00 p.m.~~
- (h) ~~**Minors.** The precious metal dealer shall not purchase or receive personal property of any nature on deposit from any minor.~~
- (i) ~~**Inspection of Items.** The precious metal dealer shall, at all times during the term of the license, allow the City Police Department or Issuing Authority to enter the premises where the precious metal dealer business is located, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise therein for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of.~~
- (j) ~~**License Display.** A license issued under this Division must be posted in a conspicuous place in the premises for which it is used. The license issued is only effective for the compact and contiguous space specified in the approved license application.~~
- (k) ~~**Maintenance of Order.** A licensee under this Division shall be responsible for the conduct of the business being operated and shall maintain conditions of order.~~
- (l) ~~**Gambling.** No licensee under this Division may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kin, which are redeemable in merchandise or cash. No gambling equipment authorized under Minnesota Statutes, Sections 349.11-349.60, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minnesota Statutes, Section 349.01-349.15.~~
- (m) ~~**Proper Identification.** A licensee under this Division shall not accept items of property unless the seller provides to the precious metal dealer one of the following forms of identification:

 - (i) ~~A current valid driver's license;~~
 - (ii) ~~A current valid Minnesota Identification Card; or~~
 - (iii) ~~A current valid photo identification issued by the state of residency of the person from whom the item was received or a province of Canada.~~
 No other forms of identification shall be accepted by the precious metal dealer.~~
- (n) ~~**Payment By Check.** Payment by a precious metal dealer for the purchase of a secondhand item containing precious metal shall be made only by a check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.~~
- (o) ~~**Posting of Prices; Weighing.** Every precious metal dealer shall prominently post in a conspicuous place and in letters exceeding one inch in height the minimum prices per ounce or pennyweight that are currently being paid by the dealer for precious metals and a warning notice that unless otherwise informed, the prices offered are based on the meltdown value of the precious metal, rather than the value of the item in its existing form. Precious metal items shall be weighed in plain sight of the prospective seller on scales approved by the State of Minnesota pursuant to state law.~~
- (p) ~~**Holding Period.** Any item received by a precious metal dealer shall not be sold or otherwise transferred for two (2) weeks after the date of the sale.~~
- (q) ~~**Licensed Premises.** A separate license is required for each place of business.~~

- (f) ~~**Change in Ownership.** Any change, directly or beneficially, in the ownership of any licensed precious metal dealer shall require the application for a new license and the new owner must satisfy all current eligibility requirements.]~~

SEC. 14.442.13. [RESTRICTIONS REGARDING LICENSE TRANSFER.] OPERATING RESTRICTIONS.

~~[Each license under this Division 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.]~~

- (a) **Automatic Holding Period.** ~~No item received by a licensee may be sold or transferred for a period of at least seven (7) days. An item or items received by a licensee for which a report to police is required in Section 14.442.12 shall not be sold or otherwise transferred for fifteen (15) days after the date of the receipt of such property by the licensee. Items may not be altered, modified, or changed in any way during the holding period. A higher bond may be posted pursuant to Section 14.442.10 (c) of this Division in lieu of the automatic holding period.~~
- (b) **Police Orders to Hold or Confiscate.**
- (1) **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 seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative hold is cancelled, or until an order to hold/confiscate is issued, whichever occurs first.~~
 - (2) **Order to hold.** ~~Whenever the chief of police or the chief's designee orders a licensee not to sell an item, the item must not be sold or removed from the premises until the police chief or the chief's designee authorizes its release. The order to hold shall expire ninety (90) days from the date it is placed on the property unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing that the order is being extended.~~
 - (3) **Order to confiscate.** ~~Whenever an item is identified as stolen property or evidence of a crime the chief of police or the chief's designee may either physically confiscate and remove it from the premises or place an order to hold on the property as provided above and leave it on the premises. When an item is confiscated, the police chief or police chief's designee must provide upon request their badge number, name, police department telephone number and the case number relating to the confiscation. When an order to hold or confiscate is no longer necessary, the chief of police or the chief's designee shall so notify the licensee .~~
- (c) **Suspicious Property.** ~~A licensee or registrant must report to the City police any article sold or received or sought to be sold or received, if the licensee or registrant has reason to believe that the article was stolen or lost. No licensee or registrant shall receive or accept any item of property which contains an altered, obliterated or obviously removed serial number or unique identifier.~~
- (d) **Police Inspections.** ~~The licensee or registrant must allow the police license inspector or the inspector's designee to enter the premises where the licensed or registered business is located or business records are maintained, including off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and inspecting such premises and the items, ware, merchandise and records therein to verify compliance with this Division or other applicable laws.~~
- (e) **Label Required.** ~~The licensee must affix a label to every item for which a report to the police department is required under Section 14.442.12 at the time it is received in inventory. Permanently recorded on this label must be the number or name that identifies the transaction in the licensee's records, the name of the item, and the date the item can be sold. Labels must not be re-used.~~
- (f) **Prohibited Transactions.** ~~With the exception of purchases made via an Internet auction, no licensee, clerk, agent or employee thereof shall receive any precious metal item within the limits of the City of Bloomington or outside the City limits when those precious metal items may be intended for sale, held for sale or offered for sale on the licensed premises under the following circumstances:~~
- (1) ~~By mail or third-party delivery (not including items purchased via an Internet auction) unless accompanied by a fully executed Declaration of Ownership which includes:~~
 - (A) ~~for individual sellers - the seller's full name, address, telephone number, and a legible photocopy of the seller's currently valid driver's license or state identification card.~~
 - (B) ~~for corporate sellers – the full corporate name of the seller, corporate address, telephone and facsimile numbers, federal employer identification number or federal tax identification number, the full name of the chief executive officer of the corporation and a description of the seller's business.~~

- (C) a description of the property being sold, including its size, color, material or any trademark, identification number, serial number, model number, brand name or other identifying mark on the item;
 - (D) a description of the nature of the intended sales transaction, such as trade, consignment or sale;
 - (E) the purchase price, asking price if consigned or value attributed to the items if accepted in trade;
 - (F) a signed statement by the seller attesting that he or she is the true owner of the property or is legally authorized by the true owner, who is identified by full name, address, telephone number, and date of birth, to dispose of the property, and that the property is free from all other claims and liens; and
 - (G) a signed statement by the seller that he or she is over the age of eighteen years and otherwise competent to conduct the transaction.
- (2) Unless the seller signs a statement attesting to be the true owner of the property, or is legally authorized to dispose of the property by the true owner, who is identified by full name, address, telephone number and date of birth, and that the property is free of all claims and liens.
 - (3) From any person who fails to present identification in the form of a current valid Minnesota driver's license, a current valid Minnesota identification card, or a current valid photo driver's license or photo identification card issued by another state or a province of Canada.
 - (4) From any person under the age of eighteen (18) years.
 - (5) From any person who is obviously intoxicated, chemically impaired or incompetent.
 - (6) Whenever the item of property contains an altered or obliterated serial number, "Operation Identification" number or otherwise altered so as to remove, alter or obliterate a unique identifier of the property.
- (g) **Hours of Operation.** No licensee shall receive secondhand goods or precious metal items, including antiques, or keep the business open for business transactions on any day of the week before 7:00 a.m. or after 10:00 p.m..
 - (h) **Maintenance of Order.** A licensee or registrant under this Division shall be responsible for the conduct of the business being operated in conformity with all applicable laws and shall maintain conditions of order.
 - (i) **Gambling.** No licensee or registrant under this Division may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under state law may be kept or operated and no raffles may be conducted on the licensed premises or adjoining rooms.
 - (j) **Posting of Prices; Weighing.** Every licensee shall prominently post in a conspicuous place and in letters exceeding one inch in height the minimum prices per ounce or pennyweight that are currently being paid by the dealer for precious metals and a warning notice that unless otherwise informed, the prices offered are based on the meltdown value of the precious metal, rather than the value of the item in its existing form. With the exception of coin with an intrinsic value not greater than its numismatic or denominational value, precious metal that has been assayed and is properly marked as to its weight and fineness, and gold, silver or platinum bullion coin, precious metal shall be weighed in plain sight of the prospective seller on scales approved by the State of Minnesota pursuant to state law.
 - (k) **Payment by Check.** Payment by a precious metal dealer for the purchase of a precious metal item shall be made only by a check, draft, or other negotiable or non-negotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.
 - (l) **Receipt.** The licensee or registrant shall provide a receipt to the seller of any item of property received, with the exception of items purchased via an Internet auction, which shall include:
 - (1) The name, address and telephone number of the licensee or registrant.
 - (2) The date on which the item was received by the licensee or registrant.
 - (3) A description of the item received and amount paid to the seller in exchange for the item sold.
 - (4) The signature of the licensee or agent; and
 - (5) The name and address of the seller.

SEC. 14.442.14. ~~[RENEWAL APPLICATION.]~~ RESTRICTIONS REGARDING LICENSE TRANSFER.

- (a) **[Effect of License; Deadline for Renewal Application.** All licenses issued under this Division shall be effective for one (1) year from the date of approval by the City Council. An application for the renewal of an existing license shall be made prior to the expiration date of the license and shall be made in such form as the issuing Authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by

~~an applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this Division are complied with, grant the renewal application.]~~

~~Each license or registration under this Division shall be issued to the applicant only and shall not be transferable to any other person. No licensee or registrant shall loan, sell, give or assign a license or registration to another person. A license or registration issued under this Division is for the person and premises named on the approved application, only at the permanent place of business designated on the application. However, upon written request, the Issuing Authority may approve an off-site, locked and secured storage facility. No transfer of a license or registration shall be permitted from place-to-place or from person-to-person, except in the case in which an existing licensee or registrant is merely changing a business or corporate name or changing their corporate structure so long as there is no change in the ownership or control of the business or function. All licenses or certificates of registration issued under this Division must be posted in a conspicuous place on the premises for which it issued.~~

- (b) ~~**[Consideration of Renewal Application.** Within a reasonable period after the completion of the renewal license verification process by the Issuing Authority, the Issuing Authority shall accept or deny the renewal license application in accordance with this Division. If the renewal application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after receipt of the notice by the applicant to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the Issuing Authority.]~~

~~A licensee or registrant under this Division must immediately notify the Issuing Authority of the following:~~

- ~~(1) a change in the corporate or organization officers listed in the application.~~
- ~~(2) any changes in the partnership agreement.~~
- ~~(3) a change of the managing partner, store or general manager, proprietor, or other person who is in charge of the licensed or registered premises.~~
- ~~(4) any change in the ownership of an establishment licensed or registered under this Division, including any acquisition of an interest in the partnership, corporation, or other organization by any person not identified in the application.~~

- (c) ~~When an establishment licensed or registered under this Division is sold or transferred, the licensee or registrant shall immediately notify the Issuing Authority of the sale or transfer. If the establishment that is sold or transferred is to continue in the business of precious metal dealer, the new owner must immediately apply for an appropriate license or registration under this Division. In addition, in the case of licensees, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within twenty (20) days following the sale or transfer. The management agreement shall vest control of all of the precious metal dealer's business in the existing licensee or a manager responsible to the existing licensee. The agreement shall be approved by the City Council.~~

- (d) ~~A management agreement shall be required of any licensed precious metal dealer whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Division until the City Council has reviewed and approved the management agreement and any amendments thereto.~~

SEC. 14.442.15. ~~[SANCTIONS FOR LICENSE VIOLATIONS]~~ RENEWAL APPLICATION.

- ~~[(a) **Suspension or Revocation.** The City Council may suspend or revoke a license issued pursuant to this Division for a violation of:~~

- ~~(1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.~~
- ~~(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.~~
- ~~(3) Any violation of this Division or state law.~~
- ~~(4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes Section 364.03, subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes Section 364.03, subdivision 3.~~

~~(5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.~~

~~(b) **Notice and Hearing.** A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the license application.]~~

~~(a) **Deadline for Renewal Application.** All licenses or certificates of registration issued under this Division shall be effective for one (1) year from the date of approval. An application for the renewal of an existing license or registration shall be made prior to the expiration date of the license or registration and shall be made in such form as the Issuing Authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this Division are complied with, grant the renewal application.~~

~~(b) **Consideration of Renewal Application.** Within a reasonable period after the completion of the renewal verification process by the Issuing Authority, the Issuing Authority shall accept or deny the renewal application in accordance with this Division. If the renewal application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after receipt of the notice by the applicant to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the Issuing Authority.~~

SEC. 14.442.16. ~~[PROHIBITED ACTS]~~ SANCTIONS FOR LICENSE VIOLATIONS.

~~[No precious metal dealer licensed under this Division shall:~~

~~(1) Possess stolen goods;~~

~~(2) Purchase property from a minor; or~~

~~(3) Trade or barter in a manner intended to avoid identification and recording of transactions and payment under this Division of the City Code.]~~

~~(a) **Suspension or Revocation.** The City Council may suspend or revoke a license or registration issued pursuant to this Division for any of the following reasons:~~

~~(1) Fraud, misrepresentation, or false statement contained in an application or a renewal application.~~

~~(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed or registered occupation or business.~~

~~(3) Any violation of this Division or state law.~~

~~(4) A licensee's or registrant's criminal conviction that is directly related to the occupation or business licensed or registered as defined by Minnesota Statutes Section 364.03, subdivision 2, provided that the licensee or registrant cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed or registered occupation or business as defined by Minnesota Statutes Section 364.03, subdivision 3.~~

~~(5) Conducting the licensed or registered business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.~~

~~(b) **Notice and Hearing.** A revocation or suspension by the City Council shall be preceded by written notice to the licensee or registrant and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee or registrant. The notice shall be mailed by regular and certified mail to the licensee at the most recent address listed on the application.~~

SEC. 14.442.17. PENALTY.

~~A violation of this Division shall be a misdemeanor under Minnesota law. Civil penalties shall be subject to assessment pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Article shall be construed to limit the City's other available legal remedies for any violation of the law, including without limitation, licensing sanctions, criminal, civil, and injunctive actions. In addition, violations or failure to pay civil fines may result in future license or registration ineligibility.~~

SEC. 14.442.18. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this Division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division. The City Council hereby declares that it would have adopted this Division and each section, subsection, sentences, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Division Z. [RESERVED] Secondhand Goods Dealers

SEC. 14.442.33. PURPOSE AND FINDINGS.

The purpose of this Division of the City Code is to license secondhand goods dealers, including antique dealers, auction house dealers, consignment house dealers and flea market dealers, in order to prevent these businesses from being used as facilities for the commission of crimes and to assure that such businesses comply with basic consumer protection standards, thereby protecting the health, safety and welfare of the community. The City Council makes the following findings regarding the need to regulate secondhand goods dealers, operating within the City:

- (1) Use of the services provided by secondhand goods dealers provides an opportunity for the commission of crimes and their concealment because such businesses can receive and transfer stolen property easily and quickly.
- (2) Measures to prevent stolen property from being sold to secondhand goods dealers are necessitated by the fact that no other level of government regulates this industry or effectively and efficiently identifies criminal activity related to these businesses.
- (3) An automated system of tracking merchandise and secondhand transactions will help City law enforcement officials better regulate current and future secondhand goods dealers, will decrease and stabilize the costs associated with the regulation of this industry, and will increase the identification of criminal activities in the secondhand industry.

SEC. 14.442.34. DEFINITIONS.

Antique - any secondhand good the value of which, in whole or substantial part, is derived from its age or its historical association and exceeds the original value of the item when new.

Antique Dealer - any dealer whose regular business includes selling or receiving secondhand goods where at least ninety (90) percent of the goods on hand at all times, measured according to value, consists of antiques.

Auction House Dealer - any dealer whose regular business includes selling or receiving secondhand goods some or all of which are offered for sale for the highest bid or offer tendered. If the sale is conducted by means of an auction, the auctioneer must be properly licensed and bonded in accordance with applicable laws.

Billable Transaction – every transaction conducted by a licensee required to be reported to the City Police Department under Section 14.442.43.

Consignment – an agreement between a dealer and a seller that enables the dealer to take temporary possession of secondhand property, owned by the seller, for the purpose of offering it for sale to the public.

Consignment House Dealer – a dealer in secondhand goods acquired by a consignment agreement.

Dealer – Any person whose regular business includes the purchase of goods, wares or merchandise for the purpose of selling them at wholesale or retail to any qualified purchaser.

Flea Market – any group of five (5) or more unrelated persons or businesses selling secondhand goods to the public from a single physical location.

Issuing Authority – the City of Bloomington License Section.

Internet Auction – the sale of merchandise on the World Wide Web, or Internet, by a person who is registered with and assigned a designated account or user name by the Internet website hosting the auction.

Item – any single physical article; however, with respect to a commonly accepted grouping of articles that are purchased as a set and have greater value as a set than the combined value of its components set if sold individually, the term "item" shall refer to the set.

Licensee – The person to whom a license is issued under this Division, including any agents or employees of the person.

Licensed Premises – the compact and contiguous premises described in the approved license issued by the City's Issuing Authority.

Occasional Secondhand Goods Dealer – Secondhand goods dealers whose business plan and records clearly demonstrate on an annual and continuing basis to the satisfaction of the Issuing Authority that the

business does not conduct more than 200 reportable transactions per licensing year and who agree to frequent, unannounced inspection and monitoring by the Issuing Authority and Bloomington Police Department.

Pawn Transaction – any loan on the security of pledged goods on condition that the pledged goods are left with the dealer and may be redeemed or repurchased by the person pledging the goods for a fixed price within a fixed period of time or any purchase of second hand goods by a pawnbroker licensed under Article IV, Div. M. of this Chapter.

Person – one or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

Precious Gems – any gem that is valued for its character, rarity, beauty, or quality, including diamonds, rubies, emeralds, sapphires, or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item.

Precious Metals – gold, silver, platinum, and sterling silver, whether as a separate item or in combination as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item's total weight.

Precious Metal Dealer - any person engaging in the business of coin dealer or buying secondhand items containing precious metal or gems, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects. Dealers in these items shall include, without limitation, antique dealers, consignment house dealers and auction house dealers.

Receive – to purchase, accept for sale on consignment, broker, or receive in trade for an item of equal or lesser value.

Reportable Transaction – The receipt by a licensee of secondhand goods within the limits of the City of Bloomington, or the receipt of secondhand goods by a licensee outside the City limits when those goods are intended for sale, held for sale or offered for sale on the licensed premises, where the secondhand goods are of the type defined in Section 14.442.43 of this Code for which the licensee must make daily reports to police as set forth therein.

Secondhand Goods – any tangible personal property, previously owned, used, rented or leased by a person other than the dealer offering it for sale, including without limitation: electronic audio or video equipment; firearms; musical instruments; sports equipment; photographic equipment; outboard motors; inboard drives; nautical sonar or radar devices; electric, pneumatic or hydraulic powered construction or mechanical equipment or tools; computers or computer-related equipment; cellular telephones or other communication devices; jewelry; coins; precious metals; artist signed or artist attributed original works of art and other secondhand goods or merchandise.

Secondhand Goods Dealer – Any person whose regular business includes selling or receiving secondhand goods, including auction house dealers, consignment house dealers, flea market dealers and antique dealers, but not including transactions conducted by a pawnbroker licensed under Article IV, Division M of this Chapter, a precious metal dealer licensed or registered under Article IV, Division X of this Chapter, or used car sales involving vehicles with titles requiring registration with the Minnesota Department of Motor Vehicles under Minn. Stat. Chap. 168 or boats required to be registered with the Department of Natural Resources.

Temporary Secondhand Goods Dealer – See Division V of this Article.

Unique Identifier – a serial number, identification number, model number, owner applied identifier or engraving, "Operation ID" number or symbol, or other unique marking.

SEC. 14.442.35. LICENSE OR REGISTRATION REQUIRED.

No person shall, exercise, carry-on or engage in the business of a secondhand goods dealer, unless currently licensed or registered pursuant to this Division. Issuance of a license or registration pursuant to this Division shall not relieve the dealer from obtaining any other licenses required to conduct other businesses at the same or any other location. No Occasional Secondhand Goods Dealer may conduct more than 200 reportable transactions during any licensing year without upgrading the license to a Secondhand Goods Dealer's License and paying the additional fee, after crediting the amount paid for the Occasional Secondhand Goods Dealer's license.

Pawnbrokers licensed under Article IV, Division M, of this Chapter and precious metal dealers licensed under Division X. of this Chapter do not have to obtain a separate secondhand goods dealer's license. However, secondhand goods transactions conducted by a licensed pawnbroker or precious metal dealer must be in conformity with all of the requirements set forth in this Division as though the pawnbroker or precious metal dealer held a separate secondhand goods dealer's license. This includes, without limitation, the recordkeeping, reporting and operational requirements and restrictions set forth in this Division. Violations of this Division will result in possible suspension or revocation of the pawnbroker's, or precious metal dealer's, license.

The following persons shall not be subject to the licensing requirements and regulations of this Division:

- (a) Persons who are residents, tax exempt, non-profit public charitable organizations, tax exempt political organizations or tax exempt, non-profit civic organizations conducting the occasional sale of secondhand goods at events commonly known as "garage sales", "yard sales", "moving sales", "fundraiser sales" or "estate sales" where all of the following are present:
- (1) The sale is held on real property located within the City that is occupied as a dwelling by one of the sellers or owned, rented or leased by the charitable, political or civic organization;
 - (2) The persons conducting the sale own the items offered for sale and receive all the proceeds therefrom;
 - (3) The sales event does not exceed a period of 72 consecutive hours with no more than four (4) sales events are held within a twelve (12) month period;
 - (4) The sales event does not include the sale of firearms.
- (b) Secondhand goods dealers who register with the Issuing Authority and whose business plan and records clearly demonstrate on an annual and continuing basis to the satisfaction of the Issuing Authority that they have not paid an aggregate amount to an individual seller for all of the items received from that seller at the same time or within six (6) months in one or multiple transactions of two hundred dollars (\$200.00) or more and that they conduct transactions exclusively involving the sale or receipt of any combination of the following:
- (1) Non-antique secondhand books, magazines, postcards, stamps or philatelic material;
 - (2) Secondhand furniture, excluding: antiques; audio, video or other electronic devices; or architectural elements, lighting fixtures or lamps where the dealer intends to offer the item for sale or broker the item for two hundred dollars (\$200.00) or more;
 - (3) Secondhand cookware, glassware or eating utensils not containing precious metals;
 - (4) Secondhand clothing and shoes, excluding leather or fur outerwear and apparel generally associated with the playing of or as equipment for a particular sport or recreational activity;
 - (5) Secondhand infants', toddlers' or children's' clothing, appliances, furniture or safety devices.
- (c) Secondhand goods dealers who register with the Issuing Authority and whose business plan and records clearly demonstrate on an annual and continuing basis to the satisfaction of the Issuing Authority that they acquire their secondhand merchandise exclusively by:
- (1) Sales of property from a merchant, manufacturer, wholesaler, corporate entity or government entity, having an established place of business, or goods sold at open sale from bankrupt stock, provided the secondhand goods dealer must maintain a record of all such transactions which includes at a minimum Written Declaration of Ownership setting forth:
 - (A) The seller's full corporate name, corporate address, telephone number, federal Employee Identification Number (EIN) or federal Tax Identification Number, full name of the chief executive officer of the corporation, and a description of the seller's business;
 - (B) An accurate description of each item of property that must identify the item in a manner that relates to the transaction record including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on the items;
 - (C) A description of the nature of the transaction, such as trade, consignment or sale;
 - (D) The purchase price, asking price if consigned, or value attributed to the items if accepted in trade; and
 - (E) A signed statement by the seller that the seller is the true owner of the property or proof of their authorization from the true owner to dispose of the items, and that the property is free from all other claims or liens.
 - (2) Transactions between dealers if both dealers are licensed under Minnesota Statutes Section 325F.733 or this Division of the City Code, or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under Minnesota Statutes Section 325F.733 or this Division of the City Code.
 - (3) Secondhand goods that have been donated without compensation.
- (d) Transactions conducted by sheriffs or other public officers who are acting according to law in their official capacity.
- (e) Transactions regulated by Minn. Stat. Chap. 80A or the Federal Commodity Futures Commission Act.
- (f) Secondhand goods dealers who are able to demonstrate to the Issuing Authority upon request that they qualify as a recognized, tax exempt, non-profit organization pursuant to Section 501(c) of the Internal Revenue Code or tax exempt political organization pursuant to Section 527 of the Internal Revenue Code and regulated pursuant to Minn. Stat. 10A.14, who exclusively conducts transactions involving the sale or receipt of secondhand goods that have been donated without compensation.

SEC. 14.442.36. LICENSE OR REGISTRATION APPLICATION.

An application for a license or registration shall be made on a form supplied by the Issuing Authority and shall contain the following information:

(a) Individual Applicants. If the applicant is a natural person:

- (1) The name, street resident address, and telephone number of the applicant;
- (2) Whether the applicant has ever used or has been known by a name other than the name set forth on the application, and if so, the name or names used and information concerning dates and places associated with each such name;
- (3) The name of the business if it is to be conducted under a designation or name other than the name of the applicant and a copy of the certificate of commercial assumed name as required by Minnesota Statutes Section 333.01;
- (4) The home and business street addresses of the applicant for the preceding five (5) years;
- (5) The type, name and location of every business or occupation in which the applicant has been engaged during the preceding five (5) years and the names and addresses of the applicant's employers and partners, if any, for the preceding five (5) years;
- (6) Whether the applicant has ever been convicted of a felony, crime or violation of any ordinance other than a traffic ordinance, including cases where there has been a stay of adjudication or imposition of sentence. As to each such conviction the applicant shall furnish the time and place where the offense constituting the conviction occurred and describe the offense for which the applicant was convicted;
- (7) The place and date of birth, and the state driver's license number or state identification number for the applicant.

(b) Partnership Applicants. If the applicant is a partnership:

- (1) The names and addresses of all general and limited partners and all information concerning each general partner as required in subpart (a) of this Section;
- (2) The names of the managing partners and the interest of each partner in the secondhand goods or antique business;
- (3) A true copy of the partnership agreement and a copy of the certificate of commercial assumed name as required by Minnesota Statutes Section 333.01;

(c) Corporate Applicants. If the applicant is a corporation or other organization:

- (1) The name of the corporation or business form and state in which the business is incorporated;
- (2) A true copy of the certificate of incorporation. If the applicant is a foreign corporation, a certificate of authority as required by Minnesota Statutes Section 303.06 shall be attached;
- (3) The name of the managers, proprietors or other agents in charge of the business and all information concerning each as required in subpart (a), paragraphs (1), (2), (6) and (7) of this Section;
- (4) A list of all persons who control or own an interest in excess of five (5) percent in such organization or business form or who are officers of the corporation or business form and all information concerning each as required in subpart (a), paragraphs (1), (2), (6) and (7) of this Section.

(d) All Applicants. For all applicants:

- (1) The location of the business premises;
- (2) The location at which the applicant's business records are maintained;
- (3) A legal description of the business premises to be licensed or registered;
- (4) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed or registered have been paid and if not paid, the years and amounts that are unpaid;
- (5) If the applicant does not own the business premises, a true and complete copy of the current, executed lease;
- (6) Whether the applicant holds a current pawnbroker, precious metal dealer or secondhand goods dealer license from any governmental unit, identifying the location of all other licensed premises and whether the applicant is licensed under Minnesota Statutes Sections 471.924 or 325F.731-744;
- (7) Whether the applicant or any individual, partner, corporate officer having an ownership interest in the business has previously had a pawnbroker, precious metal dealer, or secondhand goods dealer license denied or revoked by any governmental unit, identifying that governmental unit.
- (8) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed or registered. If the plans or design are on file with the City of Bloomington Building & Inspection or Planning Divisions, no additional set of plans need be submitted to the Issuing Authority;

- (9) The applicant's hours of operation, on-site management and parking facilities;
- (10) An executed data privacy advisory and consent form authorizing the release of criminal history information from each of individuals, partners and corporate officers having an interest in the business;
- (11) Such other information as the City Council or Issuing Authority may require.
- (12) Proof of Workers' Compensation Insurance as required by Minn. Stat. §176.182 and the applicant's Minnesota business tax identification number, as required by Minn. Stat. §270.72.

SEC. 14.442.37. LICENSE AND REGISTRATION FEES.

(a) Application Fee.

- (1) The license or registration application fee shall be as set forth in Section 14.03 of this Code. The fee paid shall be refunded in accordance with Section 14.15 of this Code, except that the fee shall be refunded on a monthly basis.
- (2) The application fee shall be paid in full before the application for a new license, registration or renewal shall be accepted. Upon rejection of any application for a license or upon withdrawal of any application before the City Council approval, the application fee shall be refunded in full to the applicant except where rejection is for a willful misstatement in the application.
- (3) When the license or registration is for premises where the building is not ready for occupancy, the time fixed for computation of the fee for the initial license or registration period shall be ninety (90) days after approval of the license by the City Council or approval of the registration by the Issuing Authority or upon the date the building is ready for occupancy, whichever occurs first.
- (4) When a new application is submitted as a result of incorporation by any existing licensee or registrant and the ownership, control and interest in the license or registration are unchanged, no additional fee shall be required.

(b) Investigation Fee. An applicant for any license under this Division shall deposit with the Issuing Authority at the time an original application is submitted five-hundred dollars (\$500.00) to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. If the investigation is conducted outside the State of Minnesota, the Issuing Authority may recover the actual costs of investigation not to exceed one-thousand five-hundred dollars (\$1500.00). At any time that an additional investigation is necessary because of a change in the persons in charge of the business or corporate structure, the licensee shall pay an additional nonrefundable investigation fee of \$100.00.

(c) Transaction Fee. In addition to the annual application fee, a transaction fee, based upon the actual number of billable transactions conducted by the licensee, shall be billed monthly to the licensee and is due and payable within twenty-five (25) days after the billed date. The transaction fee shall reflect the cost of processing reportable transactions and other regulatory expenses related to processing reportable transaction information, including the cost of participating in the automated record-keeping system. The amount of the transaction fee shall be as detailed in Section 14.03 of this Code and is dependent on the accuracy of the report and the type of medium (modem or other approved electronic method or manual) by which the daily reports are submitted to the City Police Department pursuant to this Division.

(d) Late Transaction Fees. A licensee failing to make a transaction fee payment within twenty-five (25) days after the billed date shall be required to pay a penalty of five percent (5%) of the amount remaining unpaid. The amount of the transaction fee not timely paid, together with the penalty shall bear interest at the rate of twelve percent (12%) per annum, from the time the transaction fee should have been paid until it is paid. Any interest and penalty shall be added to the transaction fee and be collected a part thereof. If payment of the amount due plus the five percent (5%) penalty is not paid within thirty (30) days after the due date, an additional ten percent (10%) penalty shall be imposed upon the amount due and the five percent (5%) penalty. If the delinquency continues beyond sixty (60) days, a license revocation notice may be sent and a revocation hearing may be commenced. The City Manager shall have the power to abate penalties when their enforcement would be unjust or inequitable.

(e) Electronic Reporting Problems. Licensees shall report to the City Police Department transactions by modem or other approved electronic method, except as otherwise allowed in this Division. If a licensee is unable to successfully transfer the required reports by modem or other approved electronic method, the licensee shall have on the premises and available for inspection by the City Police Department printed copies of all reportable transactions that have not been reported by modem or other approved electronic method. If the modem or other approved electronic method failure 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 in a paper or other computerized format as approved by the City Police Department. The licensee shall take all reasonable steps including the replacement of its computer system

and related components in order to return the electronic reporting system to operational condition as soon as reasonably possible.

- (f) **Erroneously Reported Transaction Penalty.** Daily reports required to be submitted to the City Police Department pursuant to Section 14.442.43 must accurately report the information required by Section 14.442.42 (c). If a licensee submits a daily report by modem or other approved electronic method containing any omission or inaccuracy in the required information, then each transaction containing an omission or inaccuracy will be classified as erroneous. Licensees who submit five (5) or more erroneous transactions within a billable month shall be charged at the rate of a manually reported transaction for each such erroneous transaction during that billable month.

SEC. 14.442.38. LICENSE OR REGISTRATION APPLICATION EXECUTION AND VERIFICATION.

All applications for a license or registration under this Division must be signed and sworn to under oath. If the application is that of a natural person, it shall 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. All submitted applications shall be referred to the Issuing Authority for verification and investigation of the facts set forth therein. The Issuing Authority shall make the determination as to whether or not the applicant qualifies for a certificate of registration in lieu of licensing. Where it is determined that the applicant does not qualify for registration in lieu of licensing, upon the applicant's payment of the difference between the registration fee and appropriate license fee, as well as the investigation fee, the application will be processed as a license application.

SEC. 14.442.39. LICENSE APPLICATION CONSIDERATION.

After the completion of the application verification and investigation by the Issuing Authority, the Issuing Authority shall accept or deny the license application in accordance with this Division. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right, within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within twenty (20) calendar days of the receipt of the appeal by the Issuing Authority. Renewal applications shall be governed by Section 14.442.45 of this Code. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises.

SEC. 14.442.40. PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE OR REGISTRATION.

- (a) **Individual Ineligibility.** No license or registration in lieu of licensing under this Division shall be issued to an applicant who is a natural person if such applicant:
- (1) Is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;
 - (2) Has been convicted of any crime directly related to the occupation licensed or registered as prescribed by Minnesota Statutes Section 364.03, subdivision 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a secondhand goods dealer as prescribed in Minnesota Statutes Section 364.03, subdivision 3;
 - (3) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business;
 - (4) Is not of good moral character or repute;
 - (5) Holds an intoxicating liquor license under Sections 13.38 – 13.57 of this Code;
 - (6) Has knowingly falsified or misrepresented information on the application;
 - (7) Is not the real party in interest in the business being licensed or registered;
 - (8) Has had an interest in a corporation, partnership, association, enterprise, business or firm that had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license or registration application is submitted to the Issuing Authority; or
 - (9) Owes taxes or assessments to the State, County, School District or City that are due and delinquent.
- (b) **Partnership Ineligibility.** No license or registration in lieu of licensing under this Division shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner who cannot meet the eligibility requirements of 14.442.40(a), or if the partnership:

- (1) Has had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license or registration application is submitted to the Issuing Authority; or
 - (2) Owes taxes or assessments to the State, County, School District or City that are due and delinquent.
 - (3) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business.
- (c) **Corporate and Association Ineligibility.** No license or registration in lieu of licensing under this Division shall be issued to an applicant that is a corporation or other organization if such applicant has any manager, proprietor or agent in charge of the business who cannot meet the eligibility requirements of Section 14.442.40(a), or if the corporation:
- (1) Has had a pawnbroker, precious metal or secondhand goods dealer's license denied or revoked as a result of a violation of law within five (5) years of the date the license or registration application is submitted to the Issuing Authority; or
 - (2) Owes taxes or assessments to the State, County, School District or City that are due and delinquent.
 - (3) Has been the subject of an investigation by a consumer protection agency, state attorney general's office, better business bureau, or similar group or agency and such investigation has indicated a pattern of disregard of consumer rights in the conduct of the business.
- (d) **Locations Ineligible.** The following locations shall be ineligible for a license or registration under this Division:
- (1) **Claims Due.** No license or registration shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the State, County, School District or City are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes Sections 278.01- .13, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.
 - (2) **Improper Zoning.** No license or registration shall be granted if the property is not properly zoned for this retail business under Chapter 19 of this Code, unless the business is a legal, nonconforming use.

SEC. 14.442.41. RESTRICTIONS REGARDING LICENSE OR REGISTRATION TRANSFER.

- (a) Each license or registration under this Division shall be issued to the named applicant only and shall not be transferable to any other person. No licensee or registrant shall loan, sell, give or assign a license or registration to another person. A license or registration issued under this Division is for the person and premises named on the approved application, only at the permanent place of business designated on the application. However, upon written request, the Issuing Authority may approve an off-site, locked and secured storage facility. No transfer of a license or registration shall be permitted from place-to-place or from person-to-person, except in the case in which an existing licensee or registrant is merely changing a business or corporate name or changing their corporate structure so long as there is no change in the ownership or control of the business or function. All licenses or certificates of registration issued under this Division must be posted in a conspicuous place on the premises for which it issued.
- (b) A licensee or registrant under this Division must immediately notify the Issuing Authority of the following:
 - (1) a change in the corporate or organization officers listed in the application.
 - (2) any changes in the partnership agreement.
 - (3) a change of the managing partner, store or general manager, proprietor, or other person who is in charge of the licensed or registered premises.
 - (4) any change in the ownership of an establishment licensed or registered under this Division, including any acquisition of an interest in the partnership, corporation, or other organization by any person not identified in the application.
- (c) When an establishment licensed or registered under this Division is sold or transferred, the licensee or registrant shall immediately notify the Issuing Authority of the sale or transfer. If the establishment that is sold or transferred is to continue in the business of secondhand goods dealer, the new owner must immediately apply for an appropriate license or registration under this Division. In addition, in the case of licensees, a management agreement, which covers the period between the sale or transfer and the issuance of the new owner's license, shall be executed between the existing licensee and the new owner within twenty (20) days following the sale or transfer. The management agreement shall vest control of all of the secondhand goods dealer's business in the existing licensee or a manager responsible to the existing licensee.

- (d) A management agreement shall be required of any licensed secondhand goods dealer whose business is being managed or operated by a person other than the licensee or an employee of the licensee. No person other than the licensee or an employee of the licensee shall be permitted to manage or operate an establishment licensed under this Division until the Issuing Authority has reviewed and approved the management agreement and any amendments thereto.

SEC. 14.442.42. RECORD KEEPING REQUIREMENTS.

- (a) **Exempt Transactions.** The following items, when received by a licensee, are exempt from the recording and reporting requirements of this Division, regardless of the purchase price paid by the licensee, asking price if consigned or brokered, or value attributed to it if accepted in trade:
- (1) A sale of property from a merchant, manufacturer, wholesaler, corporate entity or government entity, having an established place of business or goods sold at open sale from bankrupt stock provided the licensee must maintain a record of all such transactions which includes a written Declaration of Ownership that includes at a minimum the following:
 - (A) The seller's full corporate name, registered address, telephone number and federal Employee Identification Number ("EIN") or tax identification number, the full name of the chief executive officer, and a description of the seller's business.
 - (B) An accurate description of each item of property that must identify the item in a manner that relates to the transaction record including, but not limited to, any trademark, identification number, serial number, model number, brand name or other identifying mark on the item.
 - (C) A description of the nature of the transaction, such as trade, consignment or sale.
 - (D) The purchase price, asking price if consigned or value attributed to the item if accepted in trade.
 - (E) A signed statement by the seller attesting that the seller is the true owner of the property, or proof of their authorization from the true owner to dispose of the items, and that the property is free from all other claims or liens.
 - (2) Retail and wholesale sales of merchandise by the licensee originally received through a reportable transaction and for which all applicable hold periods have expired.
- (b) **Records.** At the time of receipt of an item of any secondhand goods within the limits of the City of Bloomington or the receipt of any secondhand goods by a licensee outside the City limits when those goods are intended for sale, held for sale or offered for sale on the licensed premises, the licensee shall immediately record, using the English language, in an indelible ink or other indelible medium, in a book or journal, which has page numbers that are pre-printed, or in a computerized record approved by the Issuing Authority, the following information:
- (1) an accurate description of the item of property including, but not limited to, its type, composition, size, color, and any trademark, identification number, serial number, model number, brand name or other identifying mark on such item;
 - (2) the nature of the transaction, such as trade, consignment or sale;
 - (3) the purchase price, asking price if consigned, or value attributed to the item if accepted in trade, for each item received;
 - (4) the date and time the item of property was received by the licensee; and
 - (5) the full name, address, telephone number, driver's license or state identification card number, and date of birth of the person from whom the item of property was received, or in the case of Internet auctions, the user account name or screen name of the seller and the auction's Internet address.
 - (6) the full name of the employee conducting the transaction.
- Each item received must be separately described and recorded notwithstanding that the items may have been received from the same customer at the same time. A licensee must upon request immediately provide to the appropriate law enforcement agency, license section or their designees all records required under this Division. Data entries must be retained for at least four (4) years from the date of the transaction.
- (c) **Customer Receipt.** The licensee or registrant must provide a receipt to every person from whom an item of property is received, with the exception of items purchased via an Internet auction, and shall maintain a duplicate of that receipt for four (4) years. The receipt shall include sufficient information to enable the police department to identify the transaction, and every item related to it, in the licensee's records.

SEC. 14.442.43. DAILY REPORTS TO POLICE REQUIRED.

- (a) **Daily Reports to Police Required.** A report to the City police department is required for each receipt by a licensee of an item described herein inside the City limits or outside the City limits where the item is

intended for sale, held for sale or offered for sale on the licensed premises. Each of the items described herein shall constitute a separate reportable transaction notwithstanding that several items may have been received from the same customer at the same time. For each reportable transaction set forth herein, at the close of each business day, the licensee must submit to the City Police Department the information required by Section 14.442.42 (b). The information must be submitted completely and accurately via computer modem or other approved method of electronic submission from the licensee's computer to the automated record system and terminal specified by the Issuing Authority in accordance with the standards and procedures established by the Issuing Authority. Occasional secondhand goods dealers and other licensees who can establish to the Issuing Authority that they conduct two hundred (200) or fewer transactions per license year may provide the required information in writing on forms approved by the Issuing Authority by twelve o'clock noon the first business day following the date of the transaction. The licensee must display a sign of sufficient size and in a conspicuous place on the premises so as to inform all patrons that transactions are reported to the police department daily.

All of the following types or portions of recordable transactions must be reported to the City Police Department in the manner set forth above:

- (1) Any item with a unique identifier.
- (2) Any item consisting of or containing precious metals or precious gems.
- (3) Firearms.
- (4) Items that are artist signed or artist attributed original works of art.
- (5) The receipt of any item for which the licensee paid one hundred dollars (\$100.00) or more, in cash or other consideration, or which the licensee intends to offer for sale, or broker for two hundred dollars (\$200.00) or more.

- (b) **Special Report to Police.** A report to the City police department must be made within twenty-four (24) hours of that point where a licensee has received from the same seller in a series of transactions within a six (6) month period merchandise for which the licensee paid a total of two hundred dollars or more.

SEC. 14.442.44. OPERATING RESTRICTIONS.

- (a) **Automatic Holding Period.** No item received by a licensee may be sold or transferred for a period of at least seven (7) days. An item or items received by a licensee for which a report to police is required by Section 14.442.43 shall not be sold or otherwise transferred for at least fifteen (15) days after the date of the receipt of such property by the licensee. Items may not be altered, modified, or changed in any way during the holding period.

(b) **Police Orders to Hold or Confiscate.**

- (1) **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 seventy-two (72) hours and will remain in effect for fifteen (15) days from the date of initial notification, or until the investigative hold is cancelled, or until an order to hold/confiscate is issued, whichever occurs first.
- (2) **Order to hold.** Whenever the chief of police or the chief's designee orders a licensee not to sell an item, the item must not be sold or removed from the premises until the police chief or the chief's designee authorizes its release. The order to hold shall expire ninety (90) days from the date it is placed on the property unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing that the order is being extended.
- (3) **Order to confiscate.** Whenever an item is identified as stolen property or evidence of a crime the chief of police or the chief's designee may either physically confiscate and remove it from the premises or place an order to hold on the property as provided above and leave it on the premises. When an item is confiscated, the police chief or police chief's designee must provide upon request their badge number, name, police department telephone number and the case number relating to the confiscation. When an order to hold or confiscate is no longer necessary, the chief of police or the chief's designee shall so notify the licensee .

- (c) **Suspicious Property.** A licensee or registrant must report to the City Police any article sold or received or sought to be sold or received, if the licensee or registrant has reason to believe that the article was stolen or lost. No licensee or registrant shall receive or accept any item of property which contains an altered, obliterated or obviously removed serial number or unique identifier.

- (d) **Police Inspections.** The licensee or registrant must allow the police license inspector or the inspector's designee to enter the premises where the licensed or registered business is located or business records are maintained, including off-site storage facilities, during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of locating items suspected or alleged to have been stolen or otherwise improperly disposed of and inspecting such

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

- (e) **Label Required.** The licensee must affix a label to every item for which a report to the police department is required under Section 14.442.43 at the time it is received in inventory. Permanently recorded on this label must be the number or name that identifies the transaction in the licensee's records, the name of the item, and the date the item can be sold. Labels must not be re-used.
- (f) **Prohibited Transactions.** With the exception of purchases made via an Internet auction, no licensee, clerk, agent or employee thereof shall receive any secondhand goods within the limits of the City of Bloomington or outside the City limits when those goods may be intended for sale, held for sale or offered for sale on the licensed premises under the following circumstances:
- (1) By mail or third-party delivery (not including items purchased via an Internet auction) unless accompanied by a fully executed Declaration of Ownership which includes:
 - (A) for individual sellers - the seller's full name, address, telephone number, and a legible photocopy of the seller's currently valid driver's license or state identification card.
 - (B) for corporate sellers – the full corporate name of the seller, corporate address, telephone and facsimile numbers, federal employer identification number or federal tax identification number, the full name of the chief executive officer of the corporation and a description of the seller's business.
 - (C) a description of how the seller acquired the property and the approximate date it was acquired;
 - (D) a description of the property being sold by trademark, identification number, serial number, model number, brand name or other identifying mark on the items;
 - (E) a description of the nature of the intended sales transaction, such as trade, consignment or sale;
 - (F) the purchase price, asking price if consigned or value attributed to the items if accepted in trade;
 - (G) a signed statement by the seller attesting that he or she is the true owner of the property or is legally authorized by the true owner, who is identified by full name, address, telephone number, and date of birth, to dispose of the items, and that the property is free from all other claims and liens; and
 - (H) a signed statement by the seller that he or she is over the age of eighteen years and otherwise competent to conduct the transaction.
 - (2) Unless the seller signs a statement attesting to be the true owner of the property or is legally authorized to dispose of the property by the true owner, who is identified by full name, address, telephone number and date of birth, and that the property is free of all claims and liens.
 - (3) From any person who fails to present identification in the form of a current valid Minnesota driver's license, a current valid Minnesota identification card, or a current valid photo driver's license or photo identification card issued by another state or a province of Canada.
 - (4) From any person under the age of eighteen (18) years.
 - (5) From any person who is obviously intoxicated, chemically impaired or incompetent.
 - (6) Whenever the item of property contains an altered or obliterated serial number, "Operation Identification" number or otherwise altered so as to remove, alter or obliterate a unique identifier of the property.
- (g) **Hours of Operation.** No licensee or registrant shall receive secondhand goods, including antiques, or keep the business open for business transactions on any day of the week before 6:00 a.m. or after 10:00 p.m..
- (h) **Maintenance of Order.** A licensee or registrant under this Division shall be responsible for the conduct of the business being operated in conformity with all applicable laws and shall maintain conditions of order.
- (i) **Gambling.** No licensee or registrant under this Division may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice, slot machines, roulette wheels, punchboards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under state law may be kept or operated and no raffles may be conducted on the licensed premises or adjoining rooms.
- (j) **Display and Storage of Firearms.** As a condition of licensure the dealer shall not display on the licensed premises any firearms. All firearms must be securely stored in an area that is not accessible to the general public. No firearms may be stored on the licensed premises unless or until the City Police Department approves the security of the premises and manner of storage.

SEC. 14.442.45. RENEWAL APPLICATION.

- (a) **Deadline for Renewal Application.** All licenses or certificates of registration issued under this Division shall be effective for one (1) year from the date of approval. An application for the renewal of an existing license or registration shall be made prior to the expiration date of the license or registration and shall be made in such form as the Issuing Authority requires. If, in the judgment of the City Council, good and sufficient cause is shown by an applicant for the applicant's failure to submit a renewal application before the expiration of the existing license, the City Council may, if the other provisions of this Division are complied with, grant the renewal application.
- (b) **Consideration of Renewal Application.** Within a reasonable period after the completion of the renewal verification process by the Issuing Authority, the Issuing Authority shall accept or deny the renewal application in accordance with this Division. If the renewal application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after receipt of the notice by the applicant to request an appeal of the Issuing Authority's determination to the City Council. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the Issuing Authority.

SEC. 14.442.46. SANCTIONS FOR LICENSE OR REGISTRATION VIOLATIONS.

- (a) **Suspension or Revocation.** The City Council may suspend or revoke a license or registration issued pursuant to this Division for any of the following reasons:
- (1) Fraud, misrepresentation, or false statement contained in an application or renewal application.
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed or registered occupation or business.
 - (3) Any violation of this Division or state law.
 - (4) A licensee's or registrant's criminal conviction that is directly related to the occupation or business licensed or registered as defined by Minnesota Statutes Section 364.03, subdivision 2, provided that the licensee or registrant cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed or registered occupation or business as defined by Minnesota Statutes Section 364.03, subdivision 3.
 - (5) Conducting the licensed or registered business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the community.
- (b) **Notice and Hearing.** A revocation or suspension of the license or registration by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least eight (8) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee or registrant. The notice shall be mailed by certified and regular mail to the licensee at the most recent address listed on the license or registration application.

SEC. 14.442.47. PENALTY.

A violation of this Division shall be a misdemeanor under Minnesota law. Civil penalties shall be subject to assessment pursuant to Section 12.15 of the City Charter and Section 1.19 of this City Code. However, nothing in this Article shall be construed to limit the City's other available legal remedies for any violation of the law, including without limitation, licensing sanctions, criminal, civil, and injunctive actions. In addition, violations or failure to pay civil fines may result in future license or registration ineligibility.

SEC. 14.442.48. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Division is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Division. The City Council hereby declares that it would have adopted this Division and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

The effective date of the amendments to Divisions V, X and Z of Chapter 14 of the City Code shall be June 1, 2007. The effective date of the amendments to Division M of Chapter 14 of the City Code shall be effective upon publication.

Passed and adopted this _____ day of _____, 2007.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney