ORDINANCE AMENDING THE REVISED MUNICIPAL CODE OF THE CITY OF STEVENS POINT, WISCONSIN

The Common Council of the City of Stevens Point do ordain as follows:

SECTION I: That Section 12.17 of the Revised Municipal Code, Pawn Brokers, is hereby **amended** to read as follows:

12.17 PAWNBROKERS

(1) Purpose

a. The City Council finds that the services offered by pawnshops provide an opportunity for individuals to readily transfer stolen property to those businesses. The Council also finds that consumer protection regulation is warranted in transactions involving these businesses. The Council further finds that pawnshops have outgrown the city's current ability to effectively or efficiently identify criminal activity related to them. The purpose of this ordinance is to prevent pawnshops from being used to facilitate the commission of crimes and to assure that they comply with basic consumer protection standards, thereby protecting the public health, safety and general welfare of the citizens, and pursuant to the authority granted by section 134.71, Wis. Statutes

b. This ordinance implements and establishes the required use of the Automated Pawn System (APS) to help the Police Department better regulate current and future pawnshops to decrease and stabilize costs associated with the regulation of pawnshops, and to increase identification of criminal activities in pawnshops through the timely collection and sharing of transaction information.

(2) Definitions

a. "Article" means any items of value.
b. "Billable Transaction" means every reportable transaction except renewals, redemptions, voids or extensions of existing pawns or purchases previously reported and continuously in the pawnbroker's possession.
c. "Charitable organization" means a corporation, trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
d. "Customer" means a person with whom a pawnbroker, or an agent thereof, engages in a transaction of purchase, sale, receipt or exchange of any secondhand article.
e. "Pawnbroker" means any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker's business includes buying personal property previously used, rented, leased or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, or a convention.

2. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor as described in section 70.995(2)(x), Wis. Stats.

3. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization. Any transaction between a buyer of a new article and the person who sold the article when new that involves any of the following:

a. The return of the article

b. The exchange of the article for a different, new article.

4. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization

5. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

f. "Reportable transaction" means every transaction conducted by a pawnbroker in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

1. The bulk purchase or consignment of new or used articles from a merchandise, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.

2. Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

g. "Secondhand" means owned by any person, except a wholesaler, retailer or licensed secondhand article dealer, immediately before the transaction at hand.

(3) Inspection of Items. At all times during the term of the license, the pawnbroker must allow the Police Department to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

(4) License No person may operate as a pawnbroker in the city of Stevens Point unless the person first obtains a pawnbroker license under this chapter.

(5) Display of License Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.

(6) License Application A person wishing to operate as a pawnbroker shall apply for a license to the city clerk. The clerk shall furnish application forms approved by the Police Department that shall require all of the following:

a. The applicant's name, place and date of birth, residence address, and residence addresses for the 10 year period prior to the date of the application.

b. The name and address of the business and of the owner of the business premises.
c. Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:

1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
2. If the applicant is a partnership, the names and addresses of all partners.
3. If the applicant is a limited liability company, the names and addresses of all members.
4. The name of the manager or proprietor of the business.
5. Any other information that the clerk may reasonably require.

d. A statement as to whether the applicant, including an individual, agent, officer, director, member, partner, manager or proprietor has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place and offense of all such convictions.
e. Whether the applicant or any other person listed in subsection **d.** above has ever used or been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.
f. Whether the applicant or any other person listed in subsection **d**. above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.

(7) Investigation of License Applicant The Police Department shall investigate each applicant and any other person listed in subsection C above for a pawnbroker license. The department shall furnish the information derived from that investigation in writing to the city clerk. The investigation shall include each agent, officer, member, partner, manager or proprietor.

(8) License Issuance

a. The City Council shall grant the license if all of the following apply:

1. The applicant, including an individual, a partner, a member of a limited liability company, a manger, a proprietor, or an officer, director, or agent of any corporate applicant, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335 of the Wisconsin Statutes.
2. The applicant provides to the city clerk a bond of $2,500 with not less than two sureties for the observation of all municipal ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the term of the license.

b. No license issued under this subsection may be transferred.
c. Each license is valid from January 1 until the following December 31.

(9) Requirements

a. Identification. No pawnbroker may engage in a transaction of purchase, receipt, or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker shall require the customer to present one of the following types of identification:

1. Current, valid Wisconsin's driver's license;
2. Current, valid Wisconsin identification card;

3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

b. Transactions with minors.

1. Except as provided in subsection **b, 2**., no pawnbroker may engage in a transaction of purchase, receipt or exchange of any second hand article from any minor, defined as a person under the age of 18 years.

2. A pawnbroker may engage in a transaction described under subsection **b. 1**, if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.

c. Records required. At the time of any reportable transaction other than renewals, extensions, or redemptions, every pawnbroker must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Police Department:

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

2. The purchase price, amount of money loaned upon or pledged therefore.

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

4. Date, time and place the item of property was received by the pawnbroker, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the pawnbroker's records.

5. Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, height, weight, race, color of eyes, and color of hair.

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

a. Current, valid Wisconsin Driver's license;

b. Current, valid Wisconsin identification card;

c. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

7. The signature of the person identified in the transaction.

8. Renewals, extensions, and redemptions. The pawnbroker shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extension, and redemptions.

9. Record retention. Data entries shall be retained for at least 1 year from the date of transaction.

10. For every secondhand article purchased, received, or exchanged by a pawnbroker from a customer off the pawnbroker's premises, or consigned to the pawnbroker for sale on their premises, the pawnbroker shall keep a written inventory. In this inventory the pawnbroker shall record the name and address of each customer, the date, time and place of the transaction, and a detailed description of the article that is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state he or she owns the secondhand article. The pawnbroker shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt, or exchange of any

secondhand article for not less than one year after the date of the transaction, except as provided in subsection **e**., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

d. Holding Period

1. Except as provided in subsection **d. 3**, any secondhand article purchased or received by a pawnbroker shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.

2. During the period set forth in subsection **d. 1**., the secondhand article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker shall make available for inspection any secondhand article which is kept off the premises for safekeeping.

3. Subjections **d, 1** and **2**. Do not apply to a secondhand article consigned to a pawnbroker.

e. Redemption period. Any person pledging, pawning or depositing any item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60 day holding period, items may not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval or the Police Department. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with subsection **c. 9.**

f. Police order to hold property.

1. Investigative hold. Whenever a law enforcement officer from any agency notifies a pawnbroker not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection 2, whichever comes first.

2. Order to confiscate.

a. If an item is identified as stolen or evidence in a criminal case, the police department may physically confiscate and remove it from the shop, pursuant to a written order from the police department.

b. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker, and shall provide the pawnbroker with the name and phone number of the confiscating officer and the case number related to the confiscation.

c. When an order to confiscate is no longer necessary, the police department shall so notify the pawnbroker.

g. Daily reports to police.

1. Pawnbrokers must submit every reportable transaction to the police department daily in the following manner. Pawnbrokers must provide to the police department all information required in subsection **c** and other required information, by transferring it from their computer to the APS via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the police department using procedures that address security concerns of the pawnbroker and the police department. The pawnbroker must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported daily to the department and APS.

2. Billable transaction fees. Pawnbrokers will be charged for each billable transaction reported to the police department. These fees are intended to pay for the cost of participation in the APS.

3. If a pawnbroker is unable to successfully transfer the required reports by modem, the pawnbroker must provide the police department with printed copies of all reportable transactions by 12:00 noon the next business day.

4. If the problem is determined to be in the pawnbroker's system and is not corrected by the close of the first business day following the failure, the pawnbroker must provide the required reports as detailed in subsection 3 and shall be charged a daily reporting failure fee of $10.00 until the error is corrected or, if the problem is determined to be outside the pawnbroker's system, the pawnbroker must provide the required reports in subsection 3 and resubmit all such transactions via modem when the error is corrected.

5. Regardless of the cause or origin of the technical problems that prevented the pawnbroker from uploading the reportable transactions, upon correction of the problem, the pawnbroker shall upload every reportable transaction from every business day the problem has existed.

6. The provisions of this section notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

7. Subsection **g.** shall not apply to businesses that did not have 200 reportable transactions in the past calendar year. However, any such pawnbroker must follow the daily reporting procedure for each reportable transaction by submitting a written transaction form approved by the police department to the department on the business day following the date of the reportable transaction.

h. Exception for customer return or exchange. Nothing in this section applies to the return or exchange from a customer to a pawnbroker of any secondhand article purchased from the pawnbroker.

(10) Receipt required Every pawnbroker must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years. The receipt must include at least the following information:

a. The name, address and telephone number of the licensed business.

b. The date and time the item was received by the pawnbroker.

c. Whether the item was pawned or sold, or the nature of the transaction.

d. An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
e. The signature or unique identifier of the pawnbroker or employee that conducted the transaction.
f. The amount advanced or paid.
g. The monthly and annual interest rates, including all pawn fees and charges.
h. The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.
i. The full name, residence address, residence telephone number, and date of birth of the pledger or seller.
j. The identification number and state of issue from any of the following forms of identification of the seller;

1. Current, valid Wisconsin Driver's License
2. Current, valid Wisconsin identification card.
3. Current, valid photo driver's license or identification card issued by another state or province of Canada.

k. Description of the pledger or seller, including approximate age, height, weight, race, color of eyes, and color of hair.
l. The signature of the pledger.

(11) Label Required Pawnbrokers must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the police department, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

(12) Prohibited Acts

a. No person under the age of 18 years may pawn or sell or attempt to pawn or sell goods with any pawnbroker, nor may any pawnbroker receive any goods from a person under the age of 18 years, except as permitted by section 12.17 (8)(b)2.
b. No pawnbroker may receive any goods from a person of unsound mind or an intoxicated person.
c. No pawnbroker may receive any goods unless the seller presents identification in the form of a valid driver's license, a valid state of Wisconsin identification card, or current, valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.
d. No pawnbroker may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.
e. No person may pawn, pledge, sell, consign, leave or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any pawnbroker.

f. No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-state address of residence or telephone number, nor present a false or altered identification or the identification of another to any pawnbroker.

(13) License Denial, Suspension, or Revocation

a. The city council may deny, suspend, or revoke any license issued by it under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of Sec. 12.17 of the Revised Municipal Code and sections 134.71, 943.34, 948.62 or 948.63, Wis. Statutes, or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.

(14) Fees

a. The license fee under this chapter shall be as contained in the City of Stevens Point Fees and Licenses Schedule.

b. A billable transaction fee as contained in the City of Stevens Point Fees and Licenses Schedule shall be charged for each billable transaction, and such fees shall be billed to each pawnbroker monthly and are due and payable within 30 days of the billing date. Failure to pay within that time period is a violation of this chapter.

(15) Penalty Any person who is convicted of violating any of the provisions of this chapter shall forfeit not less than $5 or more than $500, and in default of such payment, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days. Each day of violation shall constitute a separate offense.

(16) Severability If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

SECTION II: That the City of Stevens Point Fees and Licenses Schedule is hereby amended by adding thereto a fee for a pawnbroker license in the amount of $210.00 and a transaction fee of $1.00 for each billable transaction.

SECTION III: This ordinance shall take effect upon passage and publication as provided by law.

APPROVED: _____
Andrew Halverson, Mayor

Dated: April 12, 2010
Adopted: April 19, 2010
Published: April 23, 2010

ATTEST: _____
John Moe, City Clerk