



Council Committee Memorandum

TO: Joint Council Committee
FROM: Tim Murray, City Administrator
MEETING DATE: October 16, 2018
SUBJECT: Pawn Shop / Pawnbroker Licensing Ordinance

Discussion:

At the October 9, 2018 meeting, the City Council tabled the second reading of Ordinance 2018-11, an ordinance to license and regulate pawn shops/pawnbrokers, and referred the item back to committee for further discussion. The primary reason for the tabling was the proposed limitation to one for the number of licenses allowed in the entire city.

The Council is asked to provide Staff with direction on what, if any, limitations on the number of pawn shops/pawnbroker licenses should be included in the ordinance. Either in conjunction with or as an alternative to limits on the number of licenses, the Council is further requested to provide direction on any limitations they would like to see implemented as part of the operation of pawn shops/pawnbrokers within the city. These could include minimum separations between pawn shops, restrictions on the zoning districts in which they would be permitted, etc.

Staff will take the changes directed and bring back the final version of the ordinance for second reading as soon as possible.

Attachments:

- Ordinance 2018-11 – Original Version (First Reading)
- Ordinance 2018-11 – Red-Lined Version (Second Reading)
- Memo from City Attorney dated October 3, 2018

CITY OF FARIBAULT
ORDINANCE 2018-11
AN ORDINANCE CREATING CHAPTER 14 ARTICLE X
OF THE FARIBAULT CITY CODE

THE CITY OF FARIBAULT ORDAINS that the City Code of Ordinances shall be amended by the addition of the language as follows:

SECTION 1. A new Chapter 14, Article X of the Faribault City Code is hereby created as follows:

Chapter 14
ARTICLE X. Pawnbrokers

Sec. 14-140. Purpose. The city council finds that use of services provided by pawnbrokers provides an opportunity for the commission of crimes and their concealment because pawn businesses have the ability to receive and transfer property stolen by others easily and quickly. The city council also finds that consumer protection regulation is warranted in transactions involving pawnbrokers. The city council further finds that the pawn industry has outgrown the city's current ability to effectively or efficiently identify criminal activity related to pawn shops. The purpose of this Article is to prevent pawn 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 public health, safety, and general welfare of the citizens of the city.

To help the police department better regulate current and future pawn businesses, decrease and stabilize costs associated with the regulation of the pawn industry, and increase identification of criminal activities in the pawn industry through the timely collection and sharing of pawn transaction information, this Article also implements and establishes the required use of the automated pawn system ("APS").

Sec. 14-141. Definitions.

- (a) *Automated Pawn System ("APS")* shall mean a computer database operated by the Minneapolis police department, accessible from remote locations, designed to input and retrieve data on pawnbroker transactions, by those municipalities that subscribe to the system.
- (b) *Billable transaction* shall mean every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.
- (c) *Pawnbroker* shall mean any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this Article shall be applicable.
- (d) *Reportable transaction* shall mean every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a

pawn is renewed, extended, or redeemed, or for which a unique transaction number or identifier is generated by a point-of-sale software or system, or an item is confiscated by law enforcement, is reportable except:

- (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
- (2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Sec. 14-142. License Required; license fees.

- (a) It is unlawful to conduct, operate, or engage in the business of a pawnbroker without first having obtained a license issued by the city in accordance with this Article.
- (b) The annual license fees for licenses issued under this Article shall be set in the city's fee schedule. This license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the city council, and shall be reviewed and adjusted when appropriate.
- (c) In addition to the annual license fee, there shall also be imposed a billable transaction fee for each billable transaction. The billable transaction license fee shall be billed monthly and must be paid by the licensee within 30 days of receipt of the invoice. Failure to pay this fee is a violation of this Article. The billable transaction fee shall be set in the city's fee schedule.

Sec. 14-143. Application Required.

- (a) Every applicant for a new license issued under this Article shall supply the information required herein on a form prescribed by the city. The city may request any or all of this information, as it deems necessary to carry out the purpose of this Article, as part of a license renewal request.
- (b) If the applicant is a natural person, the application shall contain at a minimum the following information:
 - (1) The name, place, and date of birth, street resident address, and telephone number of the applicant;
 - (2) Whether the applicant is a citizen of the United States or a resident alien;
 - (3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;
 - (4) 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 certified copy of the certificate as required by Minnesota Statutes, Section 333.01 as amended from time to time;
 - (5) The street address(es) at which the applicant has lived for the previous five years;
 - (6) The type, name, and location of every business or occupation in which the applicant is or has been engaged during the previous five years, along with the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the previous five years;
 - (7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and nature of all such convictions;

- (8) The physical description of the applicant;
 - (9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to filing of the application; and
 - (10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (1) through (4) of this Section.
- (c) If the applicant is a partnership, the application shall contain at a minimum the following information:
- (1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in paragraph (b) of this Article;
 - (2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business;
 - (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, as it may be amended from time to time, a certified copy of such certificate must also be attached to the application;
 - (4) A true copy of the federal and state tax returns for partnership for the two years prior to the application; and
 - (5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (1) through (3) of paragraph (b) of this Article.
- (d) If the applicant is a corporation or other organization, the application shall contain at a minimum the following information:
- (1) The name of the corporation or business form, and if incorporated, the state of incorporation;
 - (2) 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 requires by Minnesota Statutes, Section 303.06, as it may be amended from time to time, must be attached to the application. Any proposed change to either the Articles or the By-laws of the corporation must be reported to the city clerk at least 14 days prior to the date such change is to be adopted by the corporation. In the case of a corporate application, the application must also describe fully the relationship of the corporation to any other corporation including the name, business address, state of incorporation, names of stockholders, directors, and officers thereof as provided hereafter, but in the case of publicly-held corporations, the city may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of such information;
 - (3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in (1) through (3) of paragraph (b) of this Article; and
 - (4) A list of all persons who control or own an interest in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in paragraph (b) of this Article. The city may waive, by express written consent, some of these requirements if the applicant is a publicly-traded corporation.
- (e) For all applicants:
- (1) Whether the applicant holds a current pawnbroker, precious metal dealer, or

secondhand goods dealer license from any other governmental unit;

- (2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;
- (3) The location of the business premises;
- (4) If the applicant does not own the business premises, a true and complete copy of the executed lease;
- (5) The legal description of the premises to be licensed;
- (6) A signed certification stating 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;
- (7) Whenever the application is for premises either planned or under construction or undergoing substantial alterations, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and
- (8) Such other information as the city council or city staff may require.

Sec. 14-144. Duty to Update.

When a licensee places a manager in charge of the business of the licensee, or if the manager(s) named on the license application change(s), the licensee must notify the city within 15 days, and shall be subject to a new investigation as outlined herein. The licensee shall provide any information deemed necessary by the city to conduct an investigation into the new manager(s). The licensee shall also pay an investigation fee. If the investigation is conducted solely within the state of Minnesota, the fee shall be \$500.00. If the investigation is conducted outside the state of Minnesota, the city may recover the actual costs associated with conducting the investigation, not to exceed \$10,000.00. Additionally, each licensee shall notify the City in writing when any of the information contained in the license application has been changed. Unless specifically provided in this section, changes to licensee information shall not require a new investigation to be conducted.

Sec. 14-145. Application Processing.

- (a) All applications for a license under this Article must be signed and certified by the applicant. If the application is that of a natural person, it must be signed and certified by such person. If the application is that of a corporation, any officer thereof may sign and certify the application. If the application is that of a partnership, any one of the general partners may sign and certify the application.
- (b) All license applications submitted under this Article must be referred to the Chief of Police to conduct an investigation. Every individual or person having any beneficial interest in the license must be so investigated. The chief must make necessary inquiry and list all violations of federal or state law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The chief must report the findings and comments to the city administrator who must order or conduct such additional investigations as the administrator deems necessary or as the council directs.
- (c) A new pawnbroker license will not be issued without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. The public hearing must be preceded by ten days' published notice specifying the location of the proposed licensed business premises. The public hearing requirement contained in this section shall not apply to pawnbrokers who are currently engaged in business on the date of adoption of this Ordinance, except that this exemption is limited to the pawnbroker carrying on business in the same location presently existing.

Sec. 14-146. Persons Ineligible for a License.

- (a) No license may be issued under this Article to an applicant who is, or who has any manager, proprietor, or agent in charge of the business:
 - (1) The applicant or a manager, proprietor, or agent is a minor at the time that the application is filed;
 - (2) Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota States, Section 364.03, subdivision 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this Article as prescribed by Minnesota Statutes, Section 364.03, subdivision 3, as it may be amended from time to time; or
 - (3) Is not of good moral character and repute, as determined by the city.

Sec. 14-147. Financial Responsibility.

Prior to the issuance of any license, all applicants must file with the city satisfactory evidence of financial responsibility. Satisfactory evidence of financial responsibility shall be shown by a certification signed under oath that states that all property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this Section are delinquent or in default, that any such delinquency or default is the subject of a repayment plan or other agreement approved by the applicable governmental entity. All individual applicants, along with all individual owners and/or shareholders of the business entity must furnish satisfactory evidence of financial responsibility as required herein. Failure to provide such evidence is grounds for denial of a license under this Article, and failure to notify the city of any changes to a licensee's financial responsibility is grounds for revocation of a license.

Sec. 14-148. Bond Required.

Before a license may be issued under this Article, every applicant must submit a bond in an amount of not less than \$5,000.00 to the city. All bonds must be conditioned that the principal will observe all state laws and city ordinances in relation to pawnbrokers, and that it will conduct all business in conformity thereto. The bond must also state that the principal will account for and deliver to any person who is legally entitled any goods which have unlawfully come into the principal's possession through the principal's business as a pawnbroker, or in lieu thereof, will reimburse the person the reasonable market value of the items. The bond shall also contain a provision that no bond may be canceled except upon 30 days written notice to the city.

Sec. 14-149. Records Required.

At the time of any reportable transactions other than renewals, extensions, redemption, or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police:

- (a) A complete and accurate description of each item, including but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying marks on such item;
- (b) The purchase price, amount of money loaned upon, or pledged therefore;
- (c) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;
- (d) The date, time, and place where the item was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;
- (e) The full name, current address, current telephone number, date of birth, and accurate description of the person from whom the item was received, including but not limited to the persons sex, height, weight, race, eye color, hair color, and age.

- (f) The identification number and state of issue from any one of the following forms of identification:
 - (1) Current valid Minnesota driver's license;
 - (2) Current valid Minnesota identification card;
 - (3) Current valid photo identification card issued by another state, or a province of Canada;
 - (4) Current valid military identification card; or
 - (5) Current valid passport;
- (g) The signature of the person identified in the transaction;
- (h) Color photograph or video recording of each customer involved in a billable transaction and every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed to the item;
- (i) All photographs must be stored in digital format, and they shall be readily-available and marked with sufficient information to indicate which transaction they are associated with. The Chief of Police may prescribe uniform standards for taking, labeling, storing, and producing photographs;
- (j) For all renewals, extensions, redemptions, and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction; and
- (k) The licensee shall ensure that its records are at all reasonable times open to inspection by the police department or other city employees or agents. All data required under this Section shall be retained for not less than three years from the date of the transaction.

Sec. 14-150. Daily Reports to Police.

- (a) Reportable transactions. Effective within 60 days from the date that the police department provides licensees with the most current version of the APS Interchange File Specification, licensees must submit daily every reportable transaction to the police department in the following manner:
 - (1) Licensees must provide to the police department all reportable transaction information by transferring it from their computer to the APS via modem using the current version of the APS Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with the standards and procedures established by the city. Any transaction that does not meet the APS Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which notifies all patrons that every transaction is subject to daily reporting to the police department.
- (b) Billable Transaction fees. Licensees shall be charged for each billable transaction reported to the police department.
 - (1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon written request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon on the day following the written request;
 - (2) If the transfer problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed herein, and shall be charged a \$50.00 electronic reporting failure penalty, daily, until the error is corrected;

- (3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the reports required herein, and must resubmit all such reports electronically when the system is restored;
 - (4) If a licensee is unable to capture, digitize, or transmit the photographs required herein, the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request;
 - (5) Regardless of the cause or origin of any technical problems which prevent the licensee from uploading their reportable transactions via the APS, upon correction of such problem, the licensee shall upload all reportable transactions from every business day when the problem had occurred; and
 - (6) Notwithstanding this section, the police department may delay, upon presentation of sufficient extenuating circumstances, implementation of the daily reporting penalty.
- (c) Payment of fees. Each Licensee shall remit all billable transaction fees as specified herein on the last business day of each month. Failure to remit payment of such fees shall be considered a violation of this ordinance, with each day being a separate violation. Upon non-payment of such fees, the city may take adverse actions pursuant to section 14-158 herein.

Sec. 14-151. Receipts Required.

- (a) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:
- (1) The name, address, and telephone number of the licensed business;
 - (2) The date and time the item was received by the licensee;
 - (3) Whether the item was pawned or sold, or the nature of the transaction;
 - (4) 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 marks on such item;
 - (5) The signature or unique identifier of the licensee or employee that conducted the transaction;
 - (6) The amount advanced or paid;
 - (7) The monthly and annual interest rates, including all pawn fees and charges;
 - (8) 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;
 - (9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;
 - (10) The identification number and state of issue from any of the following forms of identification of the seller;
 - i. Current valid Minnesota driver's license;
 - ii. Current valid Minnesota identification card;
 - iii. Current valid photo driver's license or identification card issued by another state or Canadian province;
 - iv. Current valid military identification card; or

v. Current valid passport.

- (11) Description of the pledger or seller including sex, approximate height and weight, race, eye color, and hair color;
- (12) The signature of the pledger or seller; and
- (13) All printed statements required by Minnesota Statutes, Section 325J.4, subdivision 2, as it may be amended from time to time, and any other applicable rule or law.

Sec. 14-152. Redemption Period.

Any person pledging, pawning, or depositing an 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 except off-site storage authorized herein. Licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the written approval of the chief of police or their designee. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction records in accordance with this Article.

Sec. 14-153. Holding Period.

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

Sec. 14-154. Police Order to Hold Property.

- (a) Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item may 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 hold/confiscate is issued, pursuant to the provisions herein.
- (b) Order to hold. Whenever the chief of police or the chief's designee notifies a licensee not to sell an item, the item may not be sold or removed from the licensed premises until authorized in writing to be released by the chief or the chief's designee. The order to hold shall expire 90 days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing of the extended hold time.
- (c) Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief of police or the chief's designee may:
 - (1) Physically confiscate the item and remove it from the licensed premises, pursuant to a written order from the chief or the chief's designee, without compensation; or
 - (2) Place the item on hold or extend the hold as provided herein, and leave it in the licensed premises under the control of the licensee who shall be responsible for maintaining possession of the item.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the chief of police or the chief's designee shall so notify the licensee in writing.

Sec. 14-155. Inspection of Items.

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized herein, during normal business hours, except in an emergency. The purpose of entering the

licensed premises is to inspect such premises and inspect the items, wares, and merchandise and records therein to verify compliance with this Article and applicable law.

Sec. 14-156. Label Required.

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

Sec. 14-157. Prohibited Acts.

The following acts are prohibited:

- (a) No person under the age of 18 years of age may pawn or sell or attempt to pawn or sell goods with any license, nor may any licensee receive any goods from a person under the age of 18;
- (b) No licensee may receive any goods from a person of unsound mind, or from persons who are clearly under the influence of an intoxicating substance;
- (c) No licensee may receive any goods, unless the seller presents identification in the forms required herein;
- (d) No licensee may receive any item of property that possess an altered or obliterated serial number or identification number or any item of property that has had its serial number removed;
- (e) No person may pawn, pledge, sell, consign, leave, or otherwise deposit any article of personal property which they do not have lawful ownership of. No person shall pawn, pledge, sell, consign, leave, or otherwise deposit the personal property of another, whether with permission or without. No person may pawn, pledge, sell, consign, leave, or otherwise deposit any personal property in which another person has a valid security interest in; and
- (f) No person seeking to pawn, pledge, sell, consign, leave, or otherwise deposit any article of personal property with any licensee shall give a false or fictitious name, date of birth, address, phone number, or method of identification in an effort to effectuate the transfer of property;

Sec. 14-158. Denial, Suspension, and Revocation; Penalties.

- (a) Denial, suspension, and revocation. Any license issued under this Article may be denied, suspended, or revoked for one or more of the following reasons:
 - (1) The proposed use does not comply with any applicable law or rule, including the applicable zoning laws;
 - (2) The proposed use is in violation of any health, safety, building, building maintenance, or other provision of this code of ordinances or state law;
 - (3) The applicant or licensee has failed to comply with one or more provisions in this chapter;
 - (4) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;
 - (5) Fraud, misrepresentation, or bribery in securing or renewing a license;
 - (6) Fraud, misrepresentation, or false statements are made in connection to a license application or renewal, or in the course of the applicant's business dealings;
 - (7) Violation within the preceding five years of any law relating to theft, damage, or trespass to property, sale of a controlled substance, operation of a business, or any other crime showing a lack of moral turpitude; and
 - (8) The owner of the premises licensed or to be licensed would not qualify for a license

under this Article.

(b) Penalties.

- (1) Misdemeanors. A person who violates this Section is guilty of a misdemeanor unless otherwise provided by law.
- (2) Administrative civil penalties. If a licensee or an employee of a licensee is found to have violated this Section, the city council may impose an administrative penalty as follows:
 - i. First violation: a civil fine in the amount of \$500.00 and license suspension for a period of ten days;
 - ii. Second violation within 24 months of another: a civil fine in the amount of \$750.00 and suspension of license for a period of 20 days;
 - iii. Third violation within 36 months of two others: a civil fine in the amount of \$1,000.00 and suspension of license for a period of 30 days; and
 - iv. Fourth violation within 36 months of three others: revocation of license.

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

(d) Hearing. Before the city council may revoke or suspend a license under this Section, it must first notify the licensee of its intention to take such action and provide the licensee an opportunity to be heard during a public hearing on the matter.

Sec. 14-160. Business at Only One Place.

A license issued under this Article authorizes the licensee to carry on its business only at one permanent place of business as designated on the license. However, upon written request, the chief of police of their designee may provide written authorization for a licensee to utilize an off-site locked and secured storage facility for the storage of property. The licensee shall permit inspection of the facility in accordance with this Article. All provisions of this Article regarding record keeping and reporting apply to the storage facility and permanent place of business. Property shall be stored in compliance with all provisions contained herein, regardless of the location of storage. The licensee must either own the building in which the business is conducted, or have a lease on the business premises that extends for more than six months.

Sec. 14-161. Severability.

Should any provision of this Article be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity or applicability of any other provision of this Article, in whole or in part, other than the part so declared invalid.

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SECTION 2. This ordinance shall take effect and be in force after its passage and publication in accordance with Section 3.05 of the City Charter.

First Reading: September 25, 2018

Second Reading: _____, 2018

Publication Date: _____, 2018

Faribault City Council

Kevin F. Voracek, Mayor

Attest:

Timothy C. Murray. City Administrator

CITY OF FARIBAULT
ORDINANCE 2018-~~11~~11
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Sec. 14-141. Definitions.

- (a) *Automated Pawn System ("APS")* shall mean a computer database operated by the Minneapolis police department, accessible from remote locations, designed to input and retrieve data on pawnbroker transactions, by those municipalities that subscribe to the system.
- (b) *Billable transaction* shall mean every reportable transaction conducted by a pawnbroker except renewals, redemptions, or extensions of existing pawns on items previously reported and continuously in the licensee's possession, voided transactions, and confiscations.
- (c) *Pawnbroker* shall mean any natural person, partnership or corporation, either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this Article shall be applicable.
- (d) *Reportable transaction* shall mean every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment, or trade, or in which a

pawn is renewed, extended, or redeemed, or for which a unique transaction number or identifier is generated by a point-of-sale software or system, or an item is confiscated by law enforcement, is reportable except:

- (1) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
- (2) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Sec. 14-142. License Required; license fees.

- (a) It is unlawful to conduct, operate, or engage in the business of a pawnbroker without first having obtained a license issued by the city in accordance with this Article.
- (b) The annual license fees for licenses issued under this Article shall be set in the city's fee schedule. This license fee shall reflect the cost of processing transactions and other related regulatory expenses as determined by the city council, and shall be reviewed and adjusted when appropriate.
- (c) In addition to the annual license fee, there shall also be imposed a billable transaction fee for each billable transaction. The billable transaction license fee shall be billed monthly and must be paid by the licensee within 30 days of receipt of the invoice. Failure to pay this fee is a violation of this Article. The billable transaction fee shall be set in the city's fee schedule.
- (d) The City shall only issue one active pawnbroker license at any one time within the city limits.

Sec. 14-143. Application Priority; Waitlist.

- (a) Upon issuance of the license authorized in Section 14-142, the City shall accept additional applications from prospective pawnbrokers. The City shall maintain these applications on a waiting list which lists the applicants in order of those who submitted complete applications first.
- (b) Applicants applying to be put on the waitlist shall submit complete applications, except that they shall not be required to pay any fees or obtain any bonds required herein until such time as they apply for an active license.
- (c) Whenever the existing licensee shall forfeit their license, through revocation, failure to renew, or any other permanent forfeiture of said license, the City shall notify the first person on the waiting list. That person shall have ten days to notify the City, in writing, that they would like to apply for a license. Such applicant shall include, with their written notice, payment of all fees required hereunder and proof of any required bonds or other security. For purposes of this section, a temporary suspension shall not be considered forfeiture of a license.
- (d) If an applicant on the waiting list fails to respond, or defers their opportunity to apply for an active license, the City shall remove them from the waiting list. Nothing herein shall prohibit said person from reapplying, but upon submission of a completed application such party shall be placed at the bottom of the existing waiting list.
- (e) Applicants on the waiting list hereunder shall have the same obligations as the licensee hereunder to update their application for a pawnbroker license according to the terms herein.

Sec. 14-144. Application Required.

(f) ~~(e)~~ Every applicant for a new license issued under this Article shall supply the information required herein on a form prescribed by the city. The city may request any or all of this information, as it deems necessary to carry out the purpose of this Article, as part of a license renewal request.

(g) ~~(b)~~ If the applicant is a natural person, the application shall contain at a minimum the following information:

- (1) The name, place, and date of birth, street resident address, and telephone number of the applicant;
- (2) Whether the applicant is a citizen of the United States or a resident alien;
- (3) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used;
- (4) 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 certified copy of the certificate as required by Minnesota Statutes, Section 333.01 as amended from time to time;
- (5) The street address(es) at which the applicant has lived for the previous five years;
- (6) The type, name, and location of every business or occupation in which the applicant is or has been engaged during the previous five years, along with the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the previous five years;
- (7) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a traffic ordinance. If so, the applicant must furnish information as to the time, place, and nature of all such convictions;
- (8) The physical description of the applicant;
- (9) Applicant's current personal financial statement and true copies of the applicant's federal and state tax returns for the two years prior to filing of the application; and
- (10) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (1) through (4) of this Section.

(h) ~~(e)~~ If the applicant is a partnership, the application shall contain at a minimum the following information:

- (1) The name(s) and address(es) of all general and limited partners and all information concerning each general partner required in paragraph (b) of this Article;
- (2) The name(s) of the managing partner(s) and the interest of each partner in the licensed business;
- (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, as it may be amended from time to time, a certified copy of such certificate must also be attached to the application;
- (4) A true copy of the federal and state tax returns for partnership for the two years prior to the application; and
- (5) If the applicant does not manage the business, the name of the manager(s) or other person(s) in charge of the business and all information concerning each of them required in (1) through (3) of paragraph (b) of this Article.

(i) ~~(e)~~ If the applicant is a corporation or other organization, the application shall contain at a minimum the following information:

- (1) The name of the corporation or business form, and if incorporated, the state of incorporation;
- (2) 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 requires by Minnesota Statutes, Section 303.06, as it may be amended from time to time, must be attached to the application. Any proposed change to either the Articles or the By-laws of the corporation must be reported to the city clerk at least 14 days prior to the date such change is to be adopted by the corporation. In the case of a corporate application, the application must also describe fully the relationship of the corporation to any other corporation including the name, business address, state of incorporation, names of stockholders, directors, and officers thereof as provided hereafter, but in the case of publicly-held corporations, the city may accept disclosure documents required by the Securities and Exchange Commission of the United States of America in lieu of such information;
- (3) The name of the manager(s) or other person(s) in charge of the business and all information concerning each manager, proprietor, or agent required in (1) through (3) of paragraph (b) of this Article; and
- (4) A list of all persons who control or own an interest in such organization or business form or who are officers of the corporation or business form and all information concerning said persons required in paragraph (b) of this Article. The city may waive, by express written consent, some of these requirements if the applicant is a publicly-traded corporation.

(i) ~~(e)~~ For all applicants:

- (1) Whether the applicant holds a current pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;
- (2) Whether the applicant has previously been denied, or had revoked or suspended, a pawnbroker, precious metal dealer, or secondhand goods dealer license from any other governmental unit;
- (3) The location of the business premises;
- (4) If the applicant does not own the business premises, a true and complete copy of the executed lease;
- (5) The legal description of the premises to be licensed;
- (6) A signed certification stating 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;
- (7) Whenever the application is for premises either planned or under construction or undergoing substantial alterations, the application must be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed; and
- (8) Such other information as the city council or city staff may require.

Sec. 14-144. ~~Duty to Update.~~ 145. License Renewal.

Each year the licensee shall notify the City, in writing, no later than November 1st if it wishes to renew its license hereunder. In order to renew, the licensee shall include with its written notice payment of any fees required hereunder, and shall satisfy any other obligations hereunder. Failure to provide the

[required notice shall result in the licensee forfeiting its priority under this section. Upon non-renewal, the City shall notify the next party on the waiting list pursuant to Section 14-143.](#)

Sec. 14-146. Duty to Update.

When a licensee places a manager in charge of the business of the licensee, or if the manager(s) named on the license application change(s), the licensee must notify the city within 15 days, and shall be subject to a new investigation as outlined herein. The licensee shall provide any information deemed necessary by the city to conduct an investigation into the new manager(s). The licensee shall also pay an investigation fee. If the investigation is conducted solely within the state of Minnesota, the fee shall be \$500.00. If the investigation is conducted outside the state of Minnesota, the city may recover the actual costs associated with conducting the investigation, not to exceed \$10,000.00. Additionally, each licensee shall notify the City in writing when any of the information contained in the license application has been changed. Unless specifically provided in this section, changes to licensee information shall not require a new investigation to be conducted.

Sec. 14-~~145~~.147. Application Processing.

- (a) All applications for a license under this Article must be signed and certified by the applicant. If the application is that of a natural person, it must be signed and certified by such person. If the application is that of a corporation, any officer thereof may sign and certify the application. If the application is that of a partnership, any one of the general partners may sign and certify the application.
- (b) All license applications submitted under this Article must be referred to the Chief of Police to conduct an investigation. Every individual or person having any beneficial interest in the license must be so investigated. The chief must make necessary inquiry and list all violations of federal or state law or municipal ordinance including verified complaints that occurred at the establishment being investigated while under the same ownership. The chief must report the findings and comments to the city administrator who must order or conduct such additional investigations as the administrator deems necessary or as the council directs.
- (c) A new pawnbroker license will not be issued without a public hearing. Any person having an interest in or who will be affected by the proposed license will be permitted to testify at the hearing. The public hearing must be preceded by ten days' published notice specifying the location of the proposed licensed business premises. The public hearing requirement contained in this section shall not apply to pawnbrokers who are currently engaged in business on the date of adoption of this Ordinance, except that this exemption is limited to the pawnbroker carrying on business in the same location presently existing.

Sec. 14-~~146~~.148. Persons Ineligible for a License.

- (a) No license may be issued under this Article to an applicant who is, or who has any manager, proprietor, or agent in charge of the business:
 - (1) The applicant or a manager, proprietor, or agent is a minor at the time that the application is filed;
 - (2) Who has been convicted of any crime directly related to the occupation licensed as prescribed by Minnesota States, Section 364.03, subdivision 2, as it may be amended from time to time, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under this Article as prescribed by Minnesota Statutes, Section 364.03, subdivision 3, as it may be amended from time to time; or
 - (3) Is not of good moral character and repute, as determined by the city.

Sec. 14-~~147~~.149. Financial Responsibility.

Prior to the issuance of any license, all applicants must file with the city satisfactory evidence of

financial responsibility. Satisfactory evidence of financial responsibility shall be shown by a certification signed under oath that states that all property taxes, public utility bills, and all state and federal taxes or other governmental obligations or claims concerning the business entity applying for the license are current, and that no notice of delinquency or default has been issued, or if any of the financial obligations stated in this Section are delinquent or in default, that any such delinquency or default is the subject of a repayment plan or other agreement approved by the applicable governmental entity. All individual applicants, along with all individual owners and/or shareholders of the business entity must furnish satisfactory evidence of financial responsibility as required herein. Failure to provide such evidence is grounds for denial of a license under this Article, and failure to notify the city of any changes to a licensee's financial responsibility is grounds for revocation of a license.

Sec. 14-~~148~~-150. Bond Required.

Before a license may be issued under this Article, every applicant must submit a bond in an amount of not less than \$5,000.00 to the city. All bonds must be conditioned that the principal will observe all state laws and city ordinances in relation to pawnbrokers, and that it will conduct all business in conformity thereto. The bond must also state that the principal will account for and deliver to any person who is legally entitled any goods which have unlawfully come into the principal's possession through the principal's business as a pawnbroker, or in lieu thereof, will reimburse the person the reasonable market value of the items. The bond shall also contain a provision that no bond may be canceled except upon 30 days written notice to the city.

Sec. 14-~~149~~-151. Records Required.

At the time of any reportable transactions other than renewals, extensions, redemption, or confiscations, every licensee must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police:

- (a) A complete and accurate description of each item, including but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying marks on such item;
- (b) The purchase price, amount of money loaned upon, or pledged therefore;
- (c) The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges;
- (d) The date, time, and place where the item was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records;
- (e) The full name, current address, current telephone number, date of birth, and accurate description of the person from whom the item was received, including but not limited to the persons sex, height, weight, race, eye color, hair color, and age.
- (f) The identification number and state of issue from any one of the following forms of identification:
 - (1) Current valid Minnesota driver's license;
 - (2) Current valid Minnesota identification card;
 - (3) Current valid photo identification card issued by another state, or a province of Canada;
 - (4) Current valid military identification card; or
 - (5) Current valid passport;
- (g) The signature of the person identified in the transaction;
- (h) Color photograph or video recording of each customer involved in a billable transaction and every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed to the item;

- (i) All photographs must be stored in digital format, and they shall be readily-available and marked with sufficient information to indicate which transaction they are associated with. The Chief of Police may prescribe uniform standards for taking, labeling, storing, and producing photographs;
- (j) For all renewals, extensions, redemptions, and confiscations the licensee shall provide the original transaction identifier, the date of the current transaction, and the type of transaction; and
- (k) The licensee shall ensure that its records are at all reasonable times open to inspection by the police department or other city employees or agents. All data required under this Section shall be retained for not less than three years from the date of the transaction.

Sec. 14-~~150~~.152. Daily Reports to Police.

- (a) Reportable transactions. Effective within 60 days from the date that the police department provides ~~licensees~~ a licensee with the most current version of the APS Interchange File Specification, ~~licensees~~ the licensee must submit daily every reportable transaction to the police department in the following manner:
 - (1) ~~Licensees~~ The Licensee must provide to the police department all reportable transaction information by transferring it from their computer to the APS via modem using the current version of the APS Interchange File Specification. All required records must be transmitted completely and accurately after the close of business each day in accordance with the standards and procedures established by the city. Any transaction that does not meet the APS Interchange File Specification must be corrected and resubmitted the next business day. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which notifies all patrons that every transaction is subject to daily reporting to the police department.
- (b) Billable Transaction fees. ~~Licensees~~ The Licensee shall be charged for each billable transaction reported to the police department.
 - (1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department, upon written request, printed copies of all reportable transactions along with the video tape(s) for that date, by noon on the day following the written request;
 - (2) If the transfer problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must continue to provide the required reports as detailed herein, and shall be charged a \$50.00 electronic reporting failure penalty, daily, until the error is corrected;
 - (3) If the problem is determined to be outside the licensee's system, the licensee must continue to provide the reports required herein, and must resubmit all such reports electronically when the system is restored;
 - (4) If a licensee is unable to capture, digitize, or transmit the photographs required herein, the licensee must immediately take all required photographs with a still camera, cross-reference the photographs to the correct transaction, and make the pictures available to the police department upon request;
 - (5) Regardless of the cause or origin of any technical problems which prevent the licensee from uploading their reportable transactions via the APS, upon correction of such problem, the licensee shall upload all reportable transactions from every business day when the problem had occurred; and
 - (6) Notwithstanding this section, the police department may delay, upon presentation of sufficient extenuating circumstances, implementation of the daily reporting penalty.

- (c) Payment of fees. Each Licensee shall remit all billable transaction fees as specified herein on the last business day of each month. Failure to remit payment of such fees shall be considered a violation of this ordinance, with each day being a separate violation. Upon non-payment of such fees, the city may take adverse actions pursuant to ~~section 14-158 herein~~[this Section](#).

Sec. 14-~~151~~-[153](#). Receipts Required.

- (a) Every licensee must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for three years. The receipt must include at least the following information:
- (1) The name, address, and telephone number of the licensed business;
 - (2) The date and time the item was received by the licensee;
 - (3) Whether the item was pawned or sold, or the nature of the transaction;
 - (4) 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 marks on such item;
 - (5) The signature or unique identifier of the licensee or employee that conducted the transaction;
 - (6) The amount advanced or paid;
 - (7) The monthly and annual interest rates, including all pawn fees and charges;
 - (8) 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;
 - (9) The full name, current residence address, current residence telephone number, and date of birth of the pledger or seller;
 - (10) The identification number and state of issue from any of the following forms of identification of the seller;
 - i. Current valid Minnesota driver's license;
 - ii. Current valid Minnesota identification card;
 - iii. Current valid photo driver's license or identification card issued by another state or Canadian province;
 - iv. Current valid military identification card; or
 - v. Current valid passport.
 - (11) Description of the pledger or seller including sex, approximate height and weight, race, eye color, and hair color;
 - (12) The signature of the pledger or seller; and
 - (13) All printed statements required by Minnesota Statutes, Section 325J.4, subdivision 2, as it may be amended from time to time, and any other applicable rule or law.

Sec. 14-~~152~~-[154](#). Redemption Period.

Any person pledging, pawning, or depositing an 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 except off-site storage authorized herein. ~~Licensees are~~[Each Licensee is](#) prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the

pledger at the time of the initial transaction and signed by the pledger, or with the written approval of the chief of police or their designee. Written authorization for release of property to persons other than the original pledger must be maintained along with original transaction records in accordance with this Article.

Sec. 14-~~153~~-155. Holding Period.

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

Sec. 14-~~154~~-156. Police Order to Hold Property.

- (a) Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item may 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 hold/confiscate is issued, pursuant to the provisions herein.
- (b) Order to hold. Whenever the chief of police or the chief's designee notifies a licensee not to sell an item, the item may not be sold or removed from the licensed premises until authorized in writing to be released by the chief or the chief's designee. The order to hold shall expire 90 days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing of the extended hold time.
- (c) Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief of police or the chief's designee may:
 - (1) Physically confiscate the item and remove it from the licensed premises, pursuant to a written order from the chief or the chief's designee, without compensation; or
 - (2) Place the item on hold or extend the hold as provided herein, and leave it in the licensed premises under the control of the licensee who shall be responsible for maintaining possession of the item.

When an item is confiscated, the person doing so shall provide identification upon request of the licensee, and shall provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

When an order to hold/confiscate is no longer necessary, the chief of police or the chief's designee shall so notify the licensee in writing.

Sec. 14-~~155~~-157. Inspection of Items.

At all times during the terms of the license, the licensee must allow law enforcement officials to enter the premises where the licensed business is located, including all off-site storage facilities as authorized herein, during normal business hours, except in an emergency. The purpose of entering the licensed premises is to inspect such premises and inspect the items, wares, and merchandise and records therein to verify compliance with this Article and applicable law.

Sec. 14-~~156~~-158. Label Required.

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

Sec. 14-~~157~~-159. Prohibited Acts.

The following acts are prohibited:

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

- (b) No licensee may receive any goods from a person of unsound mind, or from persons who are clearly under the influence of an intoxicating substance;
- (c) No licensee may receive any goods, unless the seller presents identification in the forms required herein;
- (d) No licensee may receive any item of property that possess an altered or obliterated serial number or identification number or any item of property that has had its serial number removed;
- (e) No person may pawn, pledge, sell, consign, leave, or otherwise deposit any article of personal property which they do not have lawful ownership of. No person shall pawn, pledge, sell, consign, leave, or otherwise deposit the personal property of another, whether with permission or without. No person may pawn, pledge, sell, consign, leave, or otherwise deposit any personal property in which another person has a valid security interest in; and
- (f) No person seeking to pawn, pledge, sell, consign, leave, or otherwise deposit any article of personal property with any licensee shall give a false or fictitious name, date of birth, address, phone number, or method of identification in an effort to effectuate the transfer of property;

Sec. 14-~~158~~.160. Denial, Suspension, and Revocation; Penalties.

- (a) Denial, suspension, and revocation. Any license issued under this Article may be denied, suspended, or revoked for one or more of the following reasons:
 - (1) The proposed use does not comply with any applicable law or rule, including the applicable zoning laws;
 - (2) The proposed use is in violation of any health, safety, building, building maintenance, or other provision of this code of ordinances or state law;
 - (3) The applicant or licensee has failed to comply with one or more provisions in this chapter;
 - (4) The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information;
 - (5) Fraud, misrepresentation, or bribery in securing or renewing a license;
 - (6) Fraud, misrepresentation, or false statements are made in connection to a license application or renewal, or in the course of the applicant's business dealings;
 - (7) Violation within the preceding five years of any law relating to theft, damage, or trespass to property, sale of a controlled substance, operation of a business, or any other crime showing a lack of moral turpitude; and
 - (8) The owner of the premises licensed or to be licensed would not qualify for a license under this Article.
- (b) Penalties.
 - (1) Misdemeanors. A person who violates this Section is guilty of a misdemeanor unless otherwise provided by law.
 - (2) Administrative civil penalties. If a licensee or an employee of a licensee is found to have violated this Section, the city council may impose an administrative penalty as follows:
 - i. First violation: a civil fine in the amount of \$500.00 and license suspension for a period of ten days;
 - ii. Second violation within 24 months of another: a civil fine in the amount of \$750.00 and suspension of license for a period of 20 days;

- iii. Third violation within 36 months of two others: a civil fine in the amount of \$1,000.00 and suspension of license for a period of 30 days; and
 - iv. Fourth violation within 36 months of three others: revocation of license.
- (c) Presumptions regarding administrative penalties. The administrative penalties described herein are the presumed sanctions for the violations indicated. In the event of any license suspension imposed under this Section, the city council may select which days a suspension will be served. Notwithstanding the provision contain herein, a license may be revoked for any violation of this section when in the judgment of the council it is appropriate to do so. The city council may by resolution revise the amount of the above civil penalties. Other mandatory requirements may be made of the establishment, including but not limited to, meetings with the police department staff to present a plan of action to assure that the problems will not continue, mandatory education sessions with crime prevention staff, or other action that the city council deems appropriate.
- (d) Hearing. Before the city council may revoke or suspend a license under this Section, it must first notify the licensee of its intention to take such action and provide the licensee an opportunity to be heard during a public hearing on the matter.

Sec. 14-~~160~~.161. Business at Only One Place.

A license issued under this Article authorizes the licensee to carry on its business only at one permanent place of business as designated on the license. However, upon written request, the chief of police or their designee may provide written authorization for a licensee to utilize an off-site locked and secured storage facility for the storage of property. The licensee shall permit inspection of the facility in accordance with this Article. All provisions of this Article regarding record keeping and reporting apply to the storage facility and permanent place of business. Property shall be stored in compliance with all provisions contained herein, regardless of the location of storage. The licensee must either own the building in which the business is conducted, or have a lease on the business premises that extends for more than six months.

Sec. 14-~~161~~.162. Severability.

Should any provision of this Article be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity or applicability of any other provision of this Article, in whole or in part, other than the part so declared invalid.

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SECTION 2. This ordinance shall take effect and be in force after its passage and publication in accordance with Section 3.05 of the City Charter.

First Reading: _____, September 11, 2018

Second Reading: _____, October 9, 2018

Publication Date: _____, 2018

Faribault City Council

Kevin F. Voracek, Mayor

Attest:

Timothy C. Murray, City Administrator



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MEMORANDUM

DATE: October 3, 2018

TO: Honorable Mayor and City Council Members
Timothy C. Murray, City Administrator
Andy Bohlen, Chief of Police

FROM: Scott J. Riggs, City Attorney
Andrew M. Biggerstaff, Assistant City Attorney

RE: Revised Pawnshop Licensing Ordinance

Based upon the discussion at the September 25th City Council meeting, staff and the city attorney have updated the draft pawnbroker licensing ordinance. The following changes have been made:

- Capped the number of available active licenses at one;
- Identified a priority system for new licensees; and
- Ensured that a current licensee shall receive priority to renew their license within a prescribed timeframe.

In developing these changes and following up on the discussions at the September 25th City Council meeting, the city attorney has identified the following items that the City Council may want to consider as it moves forward with this draft legislation:

- Including a limit on the number of available licenses may subject the ordinance to potential challenge by parties seeking future licenses. The only city that has a known limit on the number of available licenses is Roseville, but it is worth noting that Roseville's restriction may be less impactful given that city's close proximity to many other urban and suburban centers.

Honorable Mayor and City Council Members
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Andy Bohlen, Chief of Police
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- It is possible that the other existing pawnbroker business may continue to operate. It is unclear what rights, if any, that individual has to continue its operations despite the adoption of a maximum number of licenses. The City may potentially face an argument that this right constitutes a nonconforming use protected by state law.
- The City will need to be prepared to address the administrative burden of compiling and administering a waiting list for licenses.
- As an alternative to a cap on the total number of licenses offered in the ordinance, the City may want to consider a zoning “buffer” restriction. While such zoning restrictions may also come under some scrutiny, where these regulations are reasonably developed to address specific issues, they have been more widely applied.