

ORDINANCE XXXXX

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MARSHALLTOWN, IOWA CHAPTER 117 JUNK DEALERS AND PAWNBROKERS

WHEREAS, the Code of Ordinances of the City of Marshalltown, Iowa Chapter 117 Junk Dealers and Pawnbrokers, adopted August 14, 1950, contains regulations for licensing and operations of junk dealers, motor vehicle junkyards, and pawnbrokers; and

WHEREAS, recommendations have been presented to the City Council to amend the ordinance to update the definitions, licensing requirements, and the reporting and retention of transaction records for secondhand dealers, itinerant dealers, and pawnbrokers; and

WHEREAS, the City Council of the City of Marshalltown finds it is in the best interest of the City to amend Chapter 117 of the Code of Ordinances.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The Code of Ordinances, City of Marshalltown, Iowa is amended by repealing Chapter 117 and enacting and adopting the following in its place.

CHAPTER 117: SECONDHAND DEALERS, ITINERANT DEALERS, AND PAWNBROKERS

§ 117.001 DEFINITIONS.

The following words and phrases shall have the meanings respectively ascribed to them for the purpose of the regulations in this section.

ANTIQUÉ DEALER. Any dealer primarily engaged in the buying and selling of collectible objects, including but not limited to pieces of furniture or works of art that have high value because of the item's considerable age.

BULLION. Any bar, ingot, or coin comprised of one or more precious metals, including but not limited to gold, silver, platinum, and palladium, and which can be exchanged on the basis of the commodity market price for its metal composition.

ENGAGED IN OR CONDUCTING BUSINESS. The purchase, sale, barter, pawn, or exchange of any item in this section, including the advertising therefor, by any business entity or individual subject to State sales tax in the City of Marshalltown.

ITINERANT DEALER. Any dealer as defined herein who engages or has engaged in any temporary or transient business conducted in a shop, room, hotel room, motel room, or other premises used for any duration less than thirty (30) consecutive days or used on a temporary basis.

PAWNBROKER. Any person who shall in any manner lend or advance money or other things for profit on the pledge or possession of personal property, or other valuable things, other than securities or written evidence of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

SECONDHAND DEALER. Any person who engages in the business of purchasing, selling,

receiving, trading, consignment selling or otherwise transferring for value any secondhand property. This definition shall include the use of any automated or camera-enabled kiosk used to purchase secondhand goods from a seller without the buyer's physical presence.

SECONDHAND GOODS. Tangible personal property previously owned by another person, whether used or not, which property, in its present state, possesses utility for the purpose for which it was originally intended.

MOTOR VEHICLE JUNKYARD. Any place, parcel, or tract of ground, wherein or whereon there is assembled or brought together six or more used, damaged, obsolete, worn out, or discarded motor vehicles for the purpose of stripping, wrecking, disassembling, or otherwise reducing the vehicles into their several component parts for the purpose of salvaging the materials or parts thereof.

TANGIBLE PERSONAL PROPERTY. Items including:

- (A) Items made in whole or in part of gold, silver, platinum, copper, or other precious metals;
- (B) Items containing or consisting of precious or semiprecious gemstones or other polished stones used for decoration or jewelry;
- (C) Fashion accessories with a sale value of \$100 or more;
- (D) Articles with serial numbers, model numbers, or other identifying marks, including, but not limited to appliances, tools, radios, stereo equipment, radar detectors, televisions, cellular phones, video recorders, camcorders, video equipment, computers, computer equipment and accessories, digital music recorders and players, and cameras; and
- (E) musical instruments;
- (F) rifles, shotguns, handguns, and other firearms;
- (G) auto parts;
and any other item of value, except:
- (H) music or movie cassette tapes and discs, record albums, computer software and diskettes, and video game cartridges;
- (I) clothing
- (J) one or more coins collected or exchanged for their numismatic value, where the scarcity, historical significance, quality, and other unique factors determine the market value of a coin rather than the commodity price of the metals that comprise it; and
- (K) books and textbooks; and
- (L) Clothes washers and dryers, refrigerators

TRANSACTION. Any purchase, sale, barter, pawn, or exchange of any item.

§ 117.002 PERMIT REQUIRED.

- (A) A secondhand dealer or pawnbroker as defined above must apply for and obtain a permit prior to being engaged in or conducting business as a secondhand dealer or pawnbroker. Such permit shall be posted conspicuously in each place of business named therein.
- (B) Itinerant dealers as defined above must apply for and obtain a permit prior to engaging in or conducting business in the City of Marshalltown.

§ 117.003 APPLICATION.

- (A) The applicant shall file a written, sworn application provided by the City Clerk. The application must be signed by the applicant, if an individual; by all partners, if a partnership; or by the president, if a corporation.
- (B) The application shall include the name of the principals, agents, and employees of the

applicant's business during the time that it is proposed that such business will be carried on in the City of Marshalltown; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (as proprietor, agent, employee or otherwise); the name and the address of the person, firm or corporation for whose account the business will be carried on if any; and if a corporation, under the laws of what state it is incorporated;

- (C) The place or places in the City of Marshalltown where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that said business shall be conducted;
- (D) The place or places, other than the permanent place of business of the applicant, where the applicant within the next six (6) months preceding the date of said application conducted an itinerant business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted; and
- (E) Credentials from the person, firm, or corporation for which the applicant proposed to do business, authorizing the applicant to act as such representative.

§ 117.004 FEE REQUIREMENT.

Every application for a permit shall be accompanied by the application fee. The fee shall be in such amount as is set by resolution by the City Council.

§ 117.005 ISSUANCE.

Upon receipt of an original application for a permit, the City Clerk shall forward the application to the Chief of Police or their designee, who shall investigate and shall submit a written report on the applicant as to the truth of the facts averred in the application and a recommendation to the City Clerk as to the approval of the permit.

Applications will also be forwarded to the Zoning Administrator for compliance review with the zoning ordinance. Certain uses may require a Special Use Permit which extends the review period.

No permit shall be issued to any applicant who has been convicted of the offense of receiving stolen goods, burglary, or robbery, or to a person who has been convicted of a financial crime more serious than a simple misdemeanor, or to a person who has been convicted of any felony, nor shall any permit be issued to any applicant whose employees, co-owners or business partners have been convicted of the offense of receiving stolen goods, burglary or robbery, or convicted of a financial crime more serious than a simple misdemeanor, or convicted of any felony. However, the prohibition against applicants who are felons or against employees, partners, or other persons involved in the business who are felons obtaining a permit shall not apply to a felon whose citizenship rights, including the right to possess firearms, have been fully restored by the Governor.

Within 10 business days of the completion of the review, the City Clerk shall issue a permit or deny a permit for reasons including but not limited to the following:

- (A) Fraud, misrepresentation, or false statement of material or relevant facts contained in the application; or

- (B) That the applicant has engaged in a fraudulent transaction or enterprise; or
- (C) That the applicant has engaged in a pattern of criminal activity, fraud, misrepresentation, or false statement of material or relevant facts contained in the application; or
- (D) Zoning code violation.

§ 117.006 APPEAL.

If the application for a permit is denied, the City Clerk shall mail to the applicant, by certified mail, a written statement of the decision with a brief statement of the reason(s) therefore. An appeal may be made in writing to the City Clerk, or their designee, within ten (10) days of the receipt of the decision. The written appeal shall state the specific grounds for the appeal. The Mayor shall designate 3 council members to hold a hearing within a reasonable time from the receipt of the appeal. At the hearing, the applicant or permit holder may be represented by counsel, may cross-examine witnesses, and may present evidence in their favor. The panel of council members may grant or deny the appeal. That decision shall be final.

§ 117.007 EXPIRATION.

Secondhand dealer, itinerant dealer, and pawnbroker permits shall expire on December 31st of the year in which it is issued. If a business is discontinued, moved, or sold within one (1) year after issuance, the permit expires and a new permit must be obtained before the business is recommenced. The annual permit is a personal privilege and shall not be transferable, nor shall there be a partial refund of the application fee where the permit holder discontinues their business prior to December 31st of the year in which the permit was issued.

§ 117.008 REVOCATION.

Any permit may be recommended for revocation by the City Clerk, or their designee if it is found that the permit holder has knowingly violated any provision of this section. The Mayor shall designate 3 council members to hold a hearing. The City Clerk shall mail to the permit holder, by certified mail, a written notice of the hearing twenty (20) days before the hearing date. The notice shall set forth the grounds of the proposed revocation and the time and place of the hearing. At the hearing, the permit holder may be represented by counsel, may cross-examine witnesses, and present evidence in their favor. The decision of the panel of council members shall be final.

§ 117.009 RECORDS OF TRANSACTIONS AND RETENTION OF PURCHASES.

- (A) Records. The City of Marshalltown Chief of Police shall designate an Internet-based property tracking service. Every permit holder, shall report each transaction of secondhand goods and tangible personal property within seventy-two (72) hours of the transaction to the Internet-based tracking service. Itinerant dealers have the option to keep and maintain a physical record book of transactions that shall be presented to the Marshalltown Police Department for inspection and photocopying before the itinerant dealer leaves the City of Marshalltown if they choose not to utilize the Internet-based tracking service. The record of each transaction shall include:
- (1) an accurate and detailed account of the sale, purchase, pawn, trade, or exchange;
 - (2) serial and model numbers, a transcription of any engraving or other identifying labels, marking, or writings located on the item, the brand name, and model name;
 - (3) the number and description of any decorative precious or semiprecious gems, stones, or

- jewelry;
- (4) the date and time of the transaction; and
 - (5) a description of the person selling, consigning, purchasing, pawning, trading, or exchanging the item, which description shall include the person's first and last name, address of residence, date of birth, and driver's license or state-issued identification card number including the state.
- (B) Antique dealer. Every antique dealer shall be exempt from the recording, reporting, and retention requirements of this Section.
- (C) Transactions exempt from reporting: Any transaction of the following shall not be required to comply with the reporting and retention requirements of this Section:
- (1) Any transaction of goods at a garage sale, yard sale, or estate sale, which shall be construed as the infrequent, periodic sale of miscellaneous household or personal articles on the premises of a private residence;
 - (2) Any consignment transaction of secondhand goods or the sale of secondhand goods donated without compensation;
 - (3) Any transaction of goods at an auction.
- (D) Retention of Items. No dealer shall sell, deliver, melt, change the form of, or dispose of any item subject to this Section of the Code of Ordinances within ten (10) business days of the acquisition of such item unless one of the following exceptions is met:
- (1) Permission to do so is granted in writing by the City of Marshalltown Chief of Police or designee; or
 - (2) A pawned item is returned to the person who pawned the item within the ten (10) day retention period pursuant to the agreed upon terms; or
 - (3) The item is bullion.
 - (4) The City of Marshalltown Chief of Police or designee may inspect all items for which a request to dispose of has been granted before the end of the ten (10) day retention period.

§ 117.010 INSPECTION OF PREMISES. Every permit holder shall admit any police officer to its premises during its regular business hours to examine articles purchased or received; and to search for and to take into possession any article known by that officer to have been reported missing or known or believed by the officer to have been stolen.

§ 117.011 PROHIBITIONS.

- (A) No permit holder shall conceal, secrete, or destroy for the purpose of concealing, any item purchased or acquired for the purpose of preventing identification thereof by a police officer or any person claiming to own the same.
- (B) It shall be unlawful for any permit holder in the course of business to acquire by purchase, barter, exchange, or pawn, any goods from any person under eighteen (18) years of age.
- (C) It shall be unlawful for any permit holder to acquire by purchase, barter, exchange, or pawn, items bearing evidence of a serial number that has been tampered with or scratched, or obliterated in any manner unless such person immediately contacts the Marshalltown Police Department.
- (D) It shall be unlawful for any permit holder to acquire by purchase, barter, exchange, or pawn, any items prior to examining photo identification with a physical description of the person selling, bartering, exchanging, or pawning said articles.

(E) It shall be unlawful for any permit holder to intentionally misrepresent or falsify any record of an item, seller, or transaction required to be reported to the Marshalltown Police Department under this chapter.

§ 117.099 VIOLATIONS.

Violations of the provisions of this chapter shall constitute municipal infractions punishable as provided in § 10.999 of this code of ordinances including but not limited to the imposition of civil penalties and/or requests for injunctive relief. After written notice of such violation, each day a violation is permitted to exist beyond the expiration of the time designated on said notice shall constitute a separate offense.

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 4. That this ordinance shall be in full force and in effect after its passage and publication as by law.

Passed this ____ day of _____ 2022, and signed this ____ day of _____, 2022.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Alicia Hunter, City Clerk

I, Alicia Hunter, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the ____ day of _____ 2022, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the ____ day of _____ 2022.

Alicia Hunter, City Clerk