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PAWN/SECONDHAND SHOPS

ORDINANCE NO. 524

VILLAGE OF BELLEVUE, ILLINOIS

ORDINANCE REGULATING PAWN SHOPS
AND SECOND-HAND STORES

WHEREAS, the Village of Bellevue Board of Trustees has determined that it is in the best interests of the Village and its citizens to regulate pawnbrokers and dealers in second-hand articles; and

WHEREAS, Section 11-42-3 of the Illinois Municipal Code (65 ILCS 5/11-42-3) authorizes municipalities to license, tax, locate and regulate dealers in second-hand articles; and

WHEREAS, Section 11-42-5 of the Illinois Municipal Code (65 ILCS 5/11-42-5) authorizes municipalities to license, tax, regulate or prohibit pawnbrokers;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BELLEVUE, PEROIA COUNTY, ILLINOIS AS FOLLOWS:

DIVISION 1: GENERAL PROVISION

Section 1.1: Definition.

As used in this Ordinance, a "secondhand dealer" is any person which operates a business for profit which buys, sells, possesses on consignment for sale or trades jewelry, stamps, coins or any precious metals which may have been previously owned by a consumer, or which derives more than 35 percent of its gross receipts from the sale, consignment for sale, pledge or trade of any goods, wares or merchandise which have previously been owned by a consumer, including but not limited to furniture, appliances, clothing, automobile accessories, books or metals, whether in bulk or manufactured state. The term "secondhand dealer" shall includes businesses commonly known as pawnbrokers, swapshop operators, stamp dealers, coin dealers and jewelers who purchase and resell items from persons other than dealers and suppliers. The fact that any business does any of the following acts shall be prima facie proof that such business is a secondhand dealership:

- (1) Advertises in any fashion that it buys or sells secondhand or used items. Such advertisements shall include, but not be limited to, media advertisements, telephone listings and signs, whether on the exterior or interior of the business.

- (2) Devotes a significant segment or section of the business premises To the purchase or sale of secondhand or used items.

Section 1.2: Exemptions.

The following are exempt from the requirements of this Ordinance:

- (1) Garage sales.
- (2) Sales conducted by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least one year prior to the holding of the sale, or which are incorporated as a not-for-profit corporation by the state.
- (3) Sales or purchases which are regulated by the licensing laws of the state, including automobile dealers, used parts dealers and automotive parts recyclers.

Section 1.3: Change of location.

No licensee shall carry on any business required to be licensed under this Ordinance except at the location designated on the license. Should the licensee wish to change the location, application shall be made to the Village for such change in writing. The Village shall approve the change of location unless the new location would be contrary to the provisions of this Ordinance or any of the ordinances of the Village.

Section 1.4: Hours of operation.

No licensee shall purchase any goods, wares, articles or things whatsoever from any person between the hours of 9:00 p.m. and 7:00 a.m. the next day.

Section 1.5: Prohibited purchases.

No licensee under this Ordinance shall purchase or accept any goods, wares, articles, or things under any of the following circumstances:

- (1) Where the seller is less than the age of 18.
- (2) Where the seller is intoxicated.
- (3) Where the seller fails to present two forms of identification of which at least one contains the sellers' full legal name, date of birth, a photograph or full physical description, and an identification number.

- (4) Where the article to be purchased had an original manufacturer's serial number at the time it was new, but no longer legibly exhibits such number.

Section 1.6: Purchasing, selling, etc., weapons prohibited.

No licensee shall deal in, or buy or sell, or display in his shop, any pistol, revolver, derringer, Bowie knife, dirk or other deadly weapon of like character, capable of being secreted upon the person.

Section 1.7: Record of purchases.

Every licensee shall keep at the licensed location a register in which shall be entered the following information: a succinct and accurate description of all property taken, purchased or received in the course of the business licensed under this Ordinance including any number or inscription that may be in or on such property; the full legal name of the person from whom the property is received including full first name and middle initial, if any; such person's current residential address, date of birth and physical description; a photo identification of such person (i.e., a driver's license or such other generally recognized form of photo identification); the amount given or loaned to such person and the terms thereof; the signature of the employee who received the property; and the signed statement of the person from whom the property was obtained that he is over 18 years of age and the legal owner of same free and clear of all encumbrances and with the legal right to sell. Entries made in the register shall be printed or typed and shall be legible. All entries shall be made immediately upon receipt or purchase of any property. The register shall be opened to inspection by any person during normal hours of operation.

Section 1.8: Reports to Village.

(a) It shall be the duty of every licensee under this Ordinance to have available for delivery to the Village, upon request from the Village, a legible and correct copy from the register of all personal property, or the valuable things, received or deposited or purchased the preceding day in whatever quantity received, including property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale, and secondhand merchandise taken in for trade.

(b) No person shall be required to furnish such description of any new property purchased from manufacturers or wholesale dealers having an established place of business, or of any goods purchased at open sale, or from a bankruptcy stock. Such goods must be accompanied by a bills of sale or other evidence of open and legitimate purchase and must be shown to the Village when demanded.

Section 1.9: Inspection of premises; seizures.

Every licensee under this Ordinance and every person employed by him in the conduct of business shall admit to any and every part of the premises designated in the license, during normal business hours, any law enforcement officer to examine any goods, articles, things, pledges, pawns, or books or other records on the premises dealing with purchase or sale of used property and to search for and to take into possession any article known or for which he has reasonable grounds to believe to have been stolen. Such law enforcement officer may make any such search or seizure as is provided for in this Ordinance, and property so seized shall be receipted for by such officer, who shall adequately describe the seized property and sign the receipt. Should the officer determine the property not be stolen, he shall promptly return same to licensee.

Section 1.10: Waiting period.

The licensee under this Ordinance shall keep all property purchased or received from an individual available for inspection for a period of seven days before it can be sold or traded.

DIVISION 2: LICENSES

Section 2.1: Required.

No person, either as owner, manager, lessee, officer or agent, or any other capacity, shall operate or permit to be operated a secondhand dealership without first having obtained a license under this Ordinance.

Section 2.2: Application.

An application for a license required by this Ordinance shall be made in writing to the Village and shall set forth the following:

- (1) The name of the individual, partnership, corporation or association applying for a license.
- (2) The residence, phone number, date of birth and driver's license number of the applicant or partners; or, if a corporation or association, the residence, phone number and driver's license number of the officers and all shareholders owning more than five percent of the outstanding shares of the stock.
- (3) The location for which the license is requested.
- (4) Whether applicant, its partners, officers or listed shareholder have been convicted of any criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.

- (5) Whether the applicant, its partners, officers or listed shareholders have held a license or had an interest in a license issued by the Village or any other jurisdiction regulating the purchase or sale of secondhand property revoked for cause, and, if so, list the date of revocation and jurisdiction.

Section 2.3: Fees.

The applicant for a license required by this Ordinance shall pay the Village prior to filing an application a license fee of \$50.00 per calendar year or part thereof. Should the license be denied, the license fee shall be refunded to the applicant.

Section 2.4: Investigation of applicant.

Upon receipt of an application for a license under this Ordinance, the Village shall cause a copy thereof to be sent to the police department, which shall report back to the Village in 21 days whether the applicant is in accordance with applicable law.

Section 2.5: Bond prerequisite to issuance.

Every applicant for a license under this Ordinance shall file with the Village a license and permit bond in the penal sum of \$1,000.00, with the Village as obligee, conditioned for the faithful and due performance of the provisions of this Ordinance and the laws of the state concerning the operation of the licensed business, and the payment of all fines and penalties by reason of the violation thereof.

Section 2.6: Issuance.

Upon receipt of the report from the police department referred to in section 2.4, the Village shall issue the license requested under this division unless it shall find that:

- (1) The application is under the age of 18.
- (2) The location requested is not in a permanent structure.
- (3) The applicant, its partners, officers or listed shareholders have been convicted of or had pled guilty to any offense related to theft, burglary, or purchasing or receiving stolen items under the laws of this state, the Village or any other jurisdiction within the past ten years, or have forfeited a bond to appear in court to answer for charges for such offenses during such time.
- (4) The location requested and structure to be used would not comply with all applicable laws including the Zoning Ordinance of the Village.

- (5) The applicant, its partners, officers or listed shareholders have held a license or had an interest in a license issued by the Village or any other jurisdiction regulating the purchase or sale of secondhand property which was revoked for cause.
- (6) The applicant, its partners, officers or listed shareholders has knowingly furnished false or misleading information or withheld relevant information on any application for a license required by this Ordinance or investigation into any application.

Section 2.7: Posting.

Every license issued under the provisions of this Ordinance shall, at all times during the period for which it is effective, be posted in a conspicuous place at or near the principal entrance to the premises for which the license is issued.

Section 2.8: Transfer.

- (a) No license issued under this Ordinance may be transferred to any other person or entity.
- (b) No corporate licensee shall permit any transfer of its stock which would vest in aggregate more than five percent of the stock outstanding in such corporation in any shareholder unless such shareholder has been certified by the Village as meeting the requirements of this Ordinance.

Section 2.9: Revocation.

- (a) Any license issued for a secondhand dealer under this Ordinance may be revoked or suspended for a period not to exceed 30 days by the Village if it shall find after hearing:
 - (1) That the licensee, its officers, agents or employees have violated any of the provisions of this Ordinance, the laws of the state, or Ordinances of the Village in the operation of the business;
 - (2) That the licensee, its partners, officers or shareholders have been convicted of any offense set forth in section 2.6(3); or
 - (3) That the licensee, partners, officers or shareholders have knowingly furnished false or misleading information or withheld relevant information on any application for a license required by this Ordinance or any investigation into any application.
- (b) The licensee shall be responsible for the acts of its agents, servants and employees in the operation of the business. Prior to holding a hearing concerning the

question of whether a license shall be revoked or suspended, the Village shall give at least ten days' written notice to the licensee setting forth the alleged violation specifically. The licensee may present evidence and cross-examine witnesses at such hearing.

PASSED AND APPROVED THIS 25th DAY OF NOVEMBER, 2002.

AYES: 6

NAYES: 0

ABSENT: 0

VILLAGE OF BELLEVUE, ILLINOIS

By: Ralph E. Wilson
Ralph E. Wilson, Mayor

Attest: Carol A. Payne
Carol A. Payne, Clerk

302-1118