

ORDINANCE NO. 5938

**AN ORDINANCE TO AMEND CHAPTER 5.36 OF THE RAPID CITY MUNICIPAL CODE TO UPDATE THE LICENSING FRAMEWORK APPLICABLE TO PAWNBROKERS AND SECONDHAND DEALERS, AND TO INCORPORATE GEMS AND PRECIOUS METALS DEALERS UNDER THIS CHAPTER.**

**WHEREAS**, the City of Rapid City maintains a licensing and regulatory framework for all pawnbrokers and secondhand dealers pursuant to the authority granted by Chapter 9-34 of the South Dakota Codified Laws; and

**WHEREAS**, the City recognizes a need to revise the existing provisions contained in Chapter 5.36 of the Rapid City Municipal Code, as many of the provision have become outdated or do not represent the most efficient method of regulation; and

**WHEREAS**, the prior repeal of Chapter 5.40 of the municipal code “Dealers in Precious Metals and Gems,” created a void in the licensing and regulatory framework as applied to this type of dealer; and

**WHEREAS**, the City deems it necessary to maintain a functional and efficient set of licensing provisions to regulate the trade of pawnbrokers, secondhand dealers, and gems and precious metals dealers; and

**WHEREAS**, the proposed amendments to the existing Chapter 5.36 of the Rapid City Municipal Code will provide the necessary changes to bring the regulatory framework within current industry practices, remedy outdated provisions, provide clarification, and eliminate redundancy.

**NOW THEREFORE, BE IT ORDAINED**, by the City of Rapid City, that Chapter 5.36 of the Rapid City Municipal Code is hereby amended through the adoption of the amendments as follows:

**Chapter 5.36 – Pawnbrokers, Secondhand Dealers, and Gems and Precious Metals Dealers**

**5.36.010 Definitions.**

—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

—A. ***BULLION.*** Refers to gold, silver, platinum or other precious metal in the form of bars, coins, or any other form, with a purity rating of 95 percent or greater.

***CRIME OF THEFT OR DISHONESTY.*** Shall include perjury, false official statement, robbery, theft, burglary, forgery, counterfeiting, or identity crimes as defined by South Dakota Codified Law.

***GEMS AND PRECIOUS METALS DEALER.*** Any person who holds oneself out to the public as engaging in the regular business of purchasing from the general public, for the purpose of resale, any precious metals, precious gems, or numismatic coins. This term shall not include those businesses for which the sale of new items at retail constitutes at least 75% of regular business transactions for at least 10 months per calendar year.

D. **NUMISMATIC COINS.** Any investment grade coin whose value is in excess of its bullion or metal value, or whose value is in excess of its legal tender value.

E. ~~1.~~ **PAWNBROKER.** Any person who holds oneself out to the public as engaging in the regular business of lending money on the deposit or pledge of tangible personal property, other than securities or evidence of indebtedness, with an understanding or agreement to sell back or return the property to the person at a stipulated price.

~~;~~

~~\_\_\_\_\_ b. Purchases personal property with an expressed or implied agreement or understanding to sell it back at a stipulated price.~~

~~\_\_\_\_\_ 2. Any pawnbroker may effect the purchase of secondhand personal property for resale purposes under the terms of this chapter by acquiring any pawn ticket of his or her own issued by transfer.~~

~~\_\_\_\_\_ **PERSON.** Any individual, partnership, corporation, association, or any other legal entity, and/or any agent or employee thereof.~~

G. **PRECIOUS GEM.** Diamonds, emeralds, rubies, sapphires, pearls, and other precious or semi-precious gemstones or minerals, or any article made, in whole or in part, of the gems.

H. **PRECIOUS METAL.** Gold, silver, platinum, palladium, and any other precious or semi-precious metals, or any article made, in whole or in part, of such metals. This definition shall not include those items which may contain nominal quantities of such metals, the value of which has little or negligible value on the items worth.

~~I.C. **REGULATED TRANSACTION.** The receipt of tangible personal property in purchase or pawn by a licensee, or any person acting on behalf of a licensee under this chapter.~~

J. **SECONDHAND GOODS DEALER.** Any person, firm or corporation, other than a pawnbroker or dealer in precious metals and precious gems, who holds oneself out to the public as engaging in the regular business of purchasing from the general public, for the purpose of resale, collects, trades, sells or deals in the following secondhand goods; business machines, electronics, tape recorders and tapes, all radio transmitters and receivers, musical instruments, cameras and camera accessories, power tools, sporting goods, stereos, stereo equipment and records, tools and tool boxes, television sets, weapons, bicycles, radios, and appliances microwave ovens and jewelry. This definition shall exempt the following transactions:

~~\_\_\_\_\_ 1. Any person, firm or corporation selling new, unused articles, and any receiving or taking in used items articles or trade from the purchasers of the new items articles, the value of which is set against the purchase price of the new item articles which is are sold at for their market value and the sale of new items represents at least 75% of the receiver's business for at least 10 months per calendar year.~~

~~\_\_\_\_\_ 2. Any person collecting antique items of personal use only;~~

~~\_\_\_\_\_ 3. Casual and occasional sales of used household goods by the owner thereof to the public, on a nonreceiving basis, if the seller, at time of sale, is not engaged for profit in the business of selling goods of that or a similar nature; this category includes those sales commonly referred to as garage sales;~~

~~\_\_\_\_\_ 4. Any person, firm or corporation dealing exclusively in the resale of used automobiles;~~

~~5. Any person, firm or corporation that operates a junkyard for wrecked automobiles;~~

~~26. Transactions involving goods sold on consignment; and~~

~~37. Transactions in secondhand goods at stores or events sponsored by nonprofit corporations or associations, or fraternal or religious organizations.~~

### **5.36.020 License – Required.**

~~A. It is unlawful for any person, firm or corporation to engage in the business of a pawnbroker, or secondhand dealer, or gems and precious metals dealer without first obtaining a license from the city's Finance Office. Any person operating such a business without a duly issued license shall be in violation of this code and shall be subject to the general penalty provisions of Chapter 1.12 and those penalties permitted under state law, each day of operation without a valid license shall constitute a separate offense.~~

~~B. The application for the license shall contain all pertinent information required by Chapter 5.04 of this code and the city's Finance Office, and shall be issued and governed in accordance with Chapter 5.04.~~

~~C. Licensing application requirements under this chapter shall apply to the primary owner/operator of a single premises and any license issued pursuant to these provisions shall be sufficient for all employees located at the premises designated on the license.~~

### **5.36.030 Unauthorized licensee.**

~~Any person applying for a license under this chapter must, before their application will be considered, appear at the Rapid City Police Department and furnish adequate identification and authorization to enable a criminal background history search to be performed. pawnbroker's license or a secondhand dealer's license, must, before their application will be considered, come to the Rapid City's Police Department and furnish adequate identification. No license under this chapter shall be issued to any person, who within the preceding 5 years has received one felony class who has been convicted or 3 misdemeanor class convictions for of a felony crime of theft or dishonesty as defined by this chapter; no license under this chapter shall be issued to any corporation, 1 or more officers or directors of which have been convicted of a felony.~~

### **5.36.0430 License – Fees and term.**

~~A. The annual licensinge fee for a license under this chapter for a pawnbroker's license shall be \$50 payable in advance. A license shall remain valid for a period of 24 months from the date of issuance, unless sooner revoked, canceled, or otherwise terminated 100, payable in advance.~~

~~B. Any person having a business which encompasses more than 1 of the 3 designated categories set forth in this chapter, and all businesses are being conducted on a single 1 premises, shall obtain all appropriate licenses applicable to such businesses, but the total licensing fee for licenses for the single premises shall not exceed \$10050.~~

C. The annual license fee for secondhand dealers shall be \$25, payable in advance. Any person conducting several or separate places of business shall pay the appropriate license fees and procure the appropriate licenses for each place of business.

#### ~~5.36.040 License Term.~~

~~—The term of the license shall be in accordance with Chapter 5.04 of this code.~~

#### ~~5.36.050 \_\_\_\_\_ License Display.~~

~~—The~~Any licenses required by § 5.36.020 ~~for pawnbrokers or secondhand dealers~~ shall at all times be on display in a conspicuous place and available for inspection by city police officers during reasonable business hours. ~~- This section shall not apply when the license is being taken to the city's Finance Office to have a change of location recorded.~~

#### ~~5.36.060 \_\_\_\_\_ Fixed premises required.~~

~~—A. —Any No~~ person licensed under this chapter must maintain ~~shall engage in business as a pawnbroker or secondhand dealer unless the person has~~ a fixed premises where the business is conducted, either on a continuing basis or from time to time, ~~and unless the person has first obtained a license to engage in that business at that premises.~~

~~—B. —~~For the purposes of this section, fixed premises shall include any non-mobile premises where the business is conducted and the pawned or purchased ~~secondhand items~~articles are held ~~according to the provisions of § 5.36.130~~, whether or not that premises remains in the same location during the period the license is in effect.

C. If, during the effective period of a license issued under this chapter, a licensee changes the location of the licensed premises within the city, the licensee shall inform the city's Finance Office of the change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises.

#### ~~5.36.070 Bond.~~

~~—Each pawnbroker doing business in the city shall furnish a good and sufficient bond, with a surety to be approved by the Common Council, in the sum of \$1,000, conditioned for faithful observance of this chapter and conditioned for the safekeeping or return of all articles held in pledge of the pawnbroker.~~

### **5.36.080 – Separate places of business– License and bond requirements.**

~~—Any person, firm or corporation conducting several or separate places of business shall pay the appropriate license fees and procure the appropriate licenses and bond for each place of business. The above-mentioned proprietor's license shall be sufficient for all clerks, agents and employees engaged at the place named in the license.~~

### **5.36.090 – Change in location of licensed premises.**

~~—If, during the effective period of a license issued under this chapter, a pawnbroker or secondhand dealer changes the location of the licensed premises within the city, the dealer shall inform the city's Finance Office of the change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises.~~

### **5.36.07100 \_\_\_ – License – Revocation and suspension ~~Suspension or revocation.~~**

~~—A. —A license issued to a licensee under this chapter may be revoked, or suspended for a period not to exceed 60 days, by the Common Council for ,who shall have violated the provisions of this chapter. A violation of this chapter by any person acting as an employee of licensee shall constitute a violation on part of the licensee.~~

~~B. Prior to any license revocation or suspension, the licensee shall be provided may be suspended for a prescribed period not to exceed 60 days, in the event of a failure on the part of the licensee to comply with the provisions of this chapter after 10-days' written notice, at the address of the licensed premises, specifying that and a public revocation/suspension hearing will be held before the Commission Council to determine the nature of alleged violations and to provide a decision of revocation/suspension, or the need for additional hearings. public hearing. — B. — A license issued to a licensee under this chapter, who shall have violated the provisions of this chapter, may be revoked by the Common Council of the city after 10-days' written notice and a public hearing.~~

~~C. It shall be the duty of the Chief of Police or his or her designee, to maintain active files on all licensed premises, documenting all violations of this chapter. A copy of this file shall be made available at any license revocation/suspension hearing.~~

~~D. A license revocation/suspension hearing shall be commenced at the request of the Chief of Police. At least 5 days prior to the commencement of any revocation/suspension hearing, the file specified in part (C) of this section shall be provided to the licensee and the licensee shall have an opportunity to respond to the alleged violations.~~

### **5.36.08110 \_\_\_ – Recordkeeping requirements.**

~~—A. —Every licensee under this chapter pawnbroker shall keep books or records of all pawn-tickets regulated transactions in a manner satisfactory to the Chief of Police, in which where he or she shall obtain and accurately record and intelligibly enter, in ink, in the English language, at the time of purchasing or receiving any personal property, and after requiring and observing identification from the person seeking to pawn the property, a record of the following information:~~

- ~~1. — A scanned copy of the person's drivers license, or alternate form of government-issued identification with identifying photograph and number; such scanned copy shall be of sufficient resolution to allow all letters, numbers, and pictures to be readily identifiable. The name of the person from whom the property is purchased or received, his or her place of residence and his or her date of birth;~~
2. Photographs of the item being purchased or received, taken with a digital camera of sufficient resolution and from a reasonable distance to permit the specific characteristics and details of the item to be readily identifiable;—
3. A photograph of the item's serial number taken with a digital camera of sufficient resolution and from a reasonable distance to permit all numbers to be readily identifiable. A detailed and accurate description of each article, which shall include, if available, the manufacturer's name, style model number, serial number, engraved initials or other identifying marks;

~~43. — The date and time of transaction;~~

~~54. — The amount paid for the item or necessary for redemption; and~~

~~65. — The date when the item/article is to be redeemed if the item is held on deposit or pledge.; and~~

~~6. — Any mortgage or bill of sale taken, or receipt of pawn ticket given.~~

~~B. — A licensee under this chapter must own, maintain, and operate a computer system with internet access and keep a subscription service to the LeadsOnline (leadsonline.com) database. If approved by the Chief of Police, a licensee may utilize an alternate computer-based recordkeeping system capable of input and storage of all information to be gathered in part (A) of this section. All information obtained under part (A) of this section, shall be entered into LeadsOnline or approved alternate recordkeeping system on the date of the regulated transaction.~~

~~C. — Every pawnbroker shall also record the date of disposition or redemption from pawn of anthe item/article or any part or portion thereof. ~~The disposition report shall be noted with be located in the same book and at the same place where the receiving records~~ required under part (A) of this section ~~of the article are located.~~~~

~~D. — The records required by this section shall be maintained for a period of 2 years following a regulated transaction.~~

~~C. — Every secondhand dealer shall keep books or records for those articles listed in § 5.36.010B. in a manner satisfactory to the Chief of Police or his or her designee, where he or she shall accurately and intelligently enter, in ink, in the English language, at the time of purchasing or receiving any article or item, the following information:~~

~~1. — The name of the person from whom the property was purchased or received, his or her place of residence and his or her date of birth;~~

~~2. — Date and time of the transaction;~~

~~3. A detailed description of the item which shall include, if available, the manufacturer's name, style model number, serial number, engraved initials or other identifying marks;~~

~~4. If the seller is not known personally to the dealer or the dealer's agent, the dealer is required to obtain the person's drivers license number and the state of issuance or, if available the identifying number from at least 1 form of government issued identification; or~~

~~5. The amount paid for the article.~~

~~ED. — Any person who fails to keep the records or fails to make the required entries identified in this section therein, or who shall intentionally or knowingly make any false or unintelligible entry, or any entry which he or she has reason to believe is untrue, or who shall fail to make the inquiries necessary to enable him or her to make the entries or any of them, or who shall fail to produce his or her records when requested by a city's Police Officer during reasonable business hours, or who shall destroy or wilfully willfully permit the records to be destroyed or lost, shall be in violation of this chapter. shall be guilty of a misdemeanor.~~

~~E. The records required by this section shall be maintained 1 year after the date of purchase or receipt and shall be made available for inspection to city's police officers during reasonable business hours.~~

### ~~5.36.120 Pawn tickets.~~

~~A. At the time of receiving a pledge and upon the subsequent renewal of a loan, the pawnbroker shall deliver to the pledgor or his or her agent a pawn ticket, which pawn tickets shall be correspondingly serially numbered, and shall contain the following information:~~

~~1. The name and address of the pawnbroker,~~

~~2. A generic description of the pledge with the particular details of description noted whenever possible in order to distinguish the article or articles;~~

~~3. The date and time of the transaction; and~~

~~4. The amount, duration and terms of the loan.~~

~~B. The pawnbroker may insert on the pawn ticket any other terms, conditions and information that are not inconsistent with the provisions of this chapter.~~

### ~~5.36.09130 — Holding periods New or secondhand goods purchased from individual not engaged in trade.~~

~~A. Any person licensed as a pawnbroker, who shall purchase any new or secondhand goods of any individual not engaged in trade, shall keep the same for inspection for 10 days from the time of the transfer, except on written release from the Chief of Police or his or her designee. The property shall be held during this period on the licensed premises or some other secure location within the city and shall not be disposed of or altered from the form in which it was received during this period.~~

~~AB. — Any licensee person licensed as a secondhand dealer who shall purchase any new or secondhand goods stated in § 5.36.010B. of any individual not engaged in trade shall either: s or receives new or used items through a regulated transaction, shall hold the items received on the licensed premises and~~

shall not dispose of nor alter an item from the form in which it was received, for a period of 5 business days, excluding Saturdays, Sundays, and calendar holidays, following a regulated transaction.

~~1. Keep the same for inspection for 10 days from the time of transfer, except on written release from the Chief of Police or his or her designee. The property shall be held during this period on the licensed premises or some other secure location within the city and shall not be disposed of or altered from the form in which it was received during this period; or~~

~~2. Keep the same for 3 working days, excluding Saturdays, Sundays and calendar holidays, after delivering the required records to the Rapid City Police Department. The time period shall begin when the records are delivered to the Rapid City Police Department. The property shall be held during this period in the licensed premises or some other secure location within the city and shall not be disposed of or altered from the form in which it was received, except on written release from the Chief of Police or his or her designee.~~

~~C. When articles are acquired by a pawnbroker or secondhand dealer in a group, they shall be kept together for identification purposes and not separated until the 10-day period has elapsed, unless released prior on written authorization by the Chief of Police or his or her designee.~~

B. When items are acquired in a group or lot, they shall be kept together for identification purposes and shall not be separated until the 5-day holding period in part (A) of this section has elapsed.

C. Any article which is taken in pawn by a pawnbroker shall not be shown either for sale or for inspection to any person, other than a city police officer, during the time period set for redemption.

#### **5.36.100 Hold Period – Exemption.**

A. The provisions of 5.36.090 (A) & (B) shall not apply to the purchase, receipt, and sale of items which the person selling or releasing such items is able to provide proof of rightful ownership through original bill of sale, or written or verbal statement provided by the original merchant seller attesting to the person's rightful ownership of the item. To be deemed sufficient proof of rightful ownership, any attesting merchant under this section must be in the regular business of buying or selling commodities to the public and must maintain an established physical place of business.

B. The provisions of 5.36.090 (A) & (B) shall not apply to the purchase, receipt, and sale of bullion and numismatic coins as defined by this chapter.

#### **~~5.36.140 Holding periods Pawned articles.~~**

~~Every article of any kind or description which is taken in pawn by a pawnbroker shall be held by the pawnbroker for a period of 40 days, during which time the same shall not be shown either for sale or for inspection, to any person, other than a city police officer, during reasonable business hours.~~

#### **5.36.1150 ~~—Hold orders—Effect.~~**

~~—The Chief of Police or any authorized law enforcement police officer may, by written order, require order a licensee pawnbroker or secondhand dealer to hold any specified article or articles item, deposited with or in the custody of the licensee pawnbroker or secondhand dealer, for purposes of further investigation by the Police Department; when the item or items is are believed to be lost or stolen. A hold order shall remain in effect for a period of 30-40 days commencing the day on which the hold order i was~~



delivered to the ~~licensed establishment pawnbroker or secondhand dealer.~~ A hold order shall supersede the provisions of ~~5.36.090 and §§ 5.36.1030, and 5.36.140~~ and no sale or other disposition may be made of the ~~article or articles item~~ while the hold order remains outstanding, unless released by ~~the~~ officers issuing the hold order.

**5.36.1260** ~~\_\_\_\_\_~~ ~~—Lost or stolen property—Title Liability.~~

~~A. \_\_\_\_\_ No licensee or employee thereof, shall receive any item through a regulated transaction which is lost or stolen. No licensee shall receive any item from any person who is not the true owner of the item or who is not authorized by the owner to release such item in purchase or pawn. Ignorance as to the ownership status of any item received will not excuse a failure to comply with this section if a licensee fails or refuses to make reasonable inquiry as to the ownership status or disregards reasonable indications that an item is lost or stolen.~~

~~B. \_\_\_\_\_ Any pawnbroker who accepts in pledge any article as security for a loan from a pledgor licensee under this chapter who receives an item from any person, who is not the rightful owner thereof, obtains no property right or interest in the article, either by reason of maturation of the loan or by transference of the pawn ticket to the pawnbroker by the pledgor or holder thereof. Ignorance of the fact that athen item pledgedreceived article was lost or stolen shall not be construed to affect the question of title, and if the pawnbroker shall sell the article to a third person, he or she shall remain liable to the original owner.~~

**5.36.1370** ~~\_\_\_\_\_~~ ~~—Unlawful transactions with minors—Prohibited.~~

~~\_\_\_\_\_ It is unlawful for any pawnbroker or secondhand dealer to accept any articles in pawn or purchase any secondhand personal property by acquiring a pawn ticket by transference from any person under 18 years of age. It is unlawful for any licensee under this chapter to receive any item in purchase or pawn from any person less than 18 years of age, unless that person is accompanied by a legal guardian who consents in writing to the sale and the identifying information specified in part 5.36.080 of this chapter is obtained from the legal guardian.~~

**5.36.1480** ~~\_\_\_\_\_~~ ~~—Inspection—Police Department's authority/duty.~~

~~A. A-It shall be the duty of the Rapid City Police Department to periodically make physical inspection ofeontact atthe licensed premises under this chapter to inspect or obtain copies of records required to be kept according to § 5.36.110, setting forth a description of the person by whom they were left in pledge or soldfor the purpose of verifying compliance with this chapter. The records required by § 5.36.080 and items received in a regulated transaction shall be kept on the licensed premises and shall be open to inspection by city police officers during regular business hours. -~~

~~B. Any licensee under this chapter The Chief of Police or his or her designee shall have the power and authority to require the reports to be made in a manner and form subject to his or her approval who shall fail or refuse access to records, items received, or licensed premises by an authorized officer of the Rapid City Police Department for purposes of compliance verification or investigation of stolen property, shall be in violation of this chapter.~~

**~~5.36.190 Inspection Premises.~~**

~~— No pawnbroker or secondhand dealer or any other personnel shall refuse, resist or attempt to prevent any city police officer without a warrant from examining the licensed premises occupied by the pawnbroker or secondhand dealer, or other secured premises within the city limits where property is stored, during reasonable business hours for the purpose of discovering stolen property.~~

**~~5.36.200 Inspection Records and pledged property Availability.~~**

~~— A. — The books or records required by § 5.36.110 to be kept by pawnbrokers or secondhand dealers shall be open to the inspection of city police officers during reasonable business hours.~~

~~— B. — The pawnbroker shall produce and show any article pledged in connection with any loan.~~

**~~5.36.210 Inspection Concealing articles to prevent identification.~~**

~~— No pawnbroker or secondhand dealer shall conceal, secrete or destroy, for the purpose of concealing, any article purchased or received by him or her, for the purpose of preventing identification thereof by city police officers.~~

**5.36.150 Transient trade shows.**

A. Transient trade shows in the business of buying, selling, new or used tangible personal property shall provide, upon request of the Rapid City Police Department, a list of all transactions relating to the purchase, sale, exchange, and trade of any and all items that occurred within the city limits during the period of the trade show.

B. Transient trade shows shall be exempt from all requirements and restrictions contained in 5.36.020 through 5.36.080 of this chapter.

CITY OF RAPID CITY

\_\_\_\_\_  
Sam Kooiker, Mayor

ATTEST:

\_\_\_\_\_  
Pauline Sumption, Finance Officer

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Published: \_\_\_\_\_  
Effective: \_\_\_\_\_