

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. F/S O-20-28 ENACTMENT NO. 0-2020-042

SPONSORED BY: Diane Gibson

1 **ORDINANCE**
2 **REPEALING THE CITY OF ALBUQUERQUE CODE OF ORDINANCES**
3 **SECTIONS 13-6-1 THROUGH 13-6-99, THE “PAWNBROKER ORDINANCE,”**
4 **AND REPLACING IT WITH A NEW ORDINANCE AMENDING EXISTING**
5 **REGULATIONS APPLICABLE TO PAWNBROKERS AND EXTENDING**
6 **REGULATIONS TO PRECIOUS MATERIAL DEALERS, SECONDHAND**
7 **RETAILERS, AND AUTOMATED CONSUMER ELECTRONIC KIOSKS**
8 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY**
9 **OF ALBUQUERQUE:**

10 **SECTION 1. Chapter 13, Article 6, Sections 1 through 99 of the Revised**
11 **Ordinances of Albuquerque, the “Pawnbroker Ordinance” is hereby repealed.**

12 **SECTION 2. A new article is hereby enacted in place of the prior**
13 **Pawnbroker Ordinance as follows:**

14 **“§ 13-6-1 SHORT TITLE.**

15 **This article may be cited as the “Pawnbroker, Precious Material Dealer,**
16 **Secondhand Retailer, and Automated Kiosk Ordinance.”**

17 **§ 13-6-2 PURPOSE.**

18 **The purposes of this article include to:**

19 **(1) Ensure a sound system of making loans against, or acquiring through**
20 **purchase, tangible personal property by and through pawnshops, precious**
21 **material dealers, secondhand retailers, and automated kiosks; and to prevent**
22 **frauds, ensure fair record keeping and reporting practices;**

23 **(2) Provide for permitting and reporting requirements for pawnbrokers,**
24 **precious metal dealers, secondhand retailers, and automated kiosks;**

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1 (3) Promote financial responsibility to the city and its residents and
2 compliance with city law; and

3 (4) Promote the health, safety, and welfare of the City by implementing
4 minimum accountability standards for pawnbroker, precious materials,
5 secondhand retailer, and automated kiosk businesses; help level the
6 regulatory playing field for these related industries; and help limit
7 vulnerability of these businesses to becoming unwitting participants in the
8 cycle of property crime.

9 § 13-6-3 DEFINITIONS.

10 APPLICANT. The person who applies for a license pursuant to this article.

11 AUTOMATED KIOSK. An interactive device at which used consumer
12 electronic devices are sold, traded, recycled, or otherwise received by or
13 transferred to another person or entity in exchange for payment.

14 CONSUMER ELECTRONICS. All handheld electronic devices such as
15 mobile phones, tablets, and mp3 players, and radios, stereos, speakers,
16 sound systems, televisions, electronic display screens, personal computers,
17 gaming devices, digital cameras and recorders, video playback devices, and
18 all similar or related consumer electronics.

19 CONTROLLING PERSON. A person who either has a ten percent (10%) or
20 greater interest in the ownership or earnings of the business, or is an Officer,
21 Director, or Partner of a company or corporation.

22 COVERED SECONDHAND GOOD. Any article of the following types of
23 tangible personal property that were previously owned by an original end
24 user or otherwise not purchased or sold as new:

- 25 a. consumer electronics,
- 26 b. firearms,
- 27 c. jewelry,
- 28 d. musical instruments and equipment,
- 29 e. precious metals,
- 30 f. precious stones,
- 31 g. sporting goods, or
- 32 h. tools, including power tools.

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1 **COVERED TRANSACTION.** Any transaction for any pledged good, and any
2 purchase, trade or acquisition for value (as opposed to by donation or
3 consignment) of any covered secondhand good by a pawnbroker, precious
4 material dealer, or secondhand retailer, or automated kiosk from a member of
5 the general public at the pawnbroker’s, precious material dealer’s, or
6 secondhand retailer’s, or automated kiosk’s place of business.

7 **DESIGNATED AGENT.** The person designated by the applicant or permit
8 holder to receive notices from the City pursuant to this Article.

9 **JEWELRY.** Personal ornaments, such as necklaces, rings, bracelets,
10 broaches, pendants and similar items that are made from or contain precious
11 metal, precious stones, or both.

12 **PAWNBROKER.** Every person permitted by the city of Albuquerque to
13 engage, in whole or in part, in the business of loaning money on the security
14 of pledged goods.

15 **PERSON.** For purposes of this ordinance, a “person” is an individual,
16 partnership, corporation, joint venture, trust, association, or any other legal
17 entity however organized.

18 **PLEGGED GOODS.** Tangible personal property other than securities or
19 printed evidences of indebtedness, which property is deposited with or
20 otherwise actually delivered into the possession of a pawnbroker as security
21 for a loan of money, or with the express or implied agreement to sell it back at
22 a stipulated price.

23 **PERMITTED VENDOR.** A vendor holding a valid business registration who
24 furnishes or supplies covered secondhand goods to a pawnbroker, precious
25 material dealer, or secondhand retailer and who does not maintain a physical
26 commercial premise in the City for the purposes of acquiring covered
27 secondhand goods from the general public.

28 **PRECIOUS MATERIAL DEALER.** Any person who is engaged in the
29 business of purchasing articles of jewelry, precious metals, or precious
30 stones, from the general public at their place of business for purposes of
31 sale, resale or exchanging for value, or for smelting, melting, or otherwise
32 processing, combining or altering these materials for any purpose.

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1 **PRECIOUS METALS.** Gold, silver, or platinum, palladium, iridium,
2 rhodium, osmium, ruthenium or an alloy of these metals.

3 **PRECIOUS STONES.** Diamonds, rubies, sapphires, emeralds, garnets,
4 pearls, turquoise and other pieces of mineral or rock of value for purposes of
5 their use in jewelry.

6 **PROPERTY UNIT ENFORCEMENT OFFICIAL.** Any sworn officer within the
7 Pawn Unit or Property Crimes Division of the Albuquerque Police Department,
8 or any person specifically assigned to the enforcement or administration of
9 this ordinance.

10 **SECONDHAND RETAILER.** For purposes this ordinance, a ‘secondhand
11 retailer’ is any person engaging in purchasing, trading or otherwise acquiring
12 for value (as opposed to by donation or consignment) any covered
13 secondhand goods from the general public at their place of business, for
14 purposes of reselling, trading, or otherwise retailing the good. The term
15 “Secondhand retailer” does not include automated kiosks.

16 **SPORTING GOODS.** Bicycles, golf clubs, tennis rackets, archery bows,
17 binoculars, skis, snow boards, and camping equipment.

18 **STORE PREMISES.** The total area occupied by a pawnbroker, precious
19 material dealer, or secondhand retailer at the address on the city-issued
20 registration or permit, and each automated kiosk unit and its associated
21 offsite storage facility where consumer electronics received may be stored
22 within the 15 day hold period required by this ordinance.

23 **§ 13-6-4 PERMITS REQUIRED; PERMIT FEE; PENALTY.**

24 **(A)** No person shall act as a pawnbroker, precious material dealer,
25 secondhand retailer, or automated kiosk, or advertise, transact, or solicit
26 business as a pawnbroker, precious material dealer, secondhand retailer, or
27 automated kiosk without first having obtained a permit from the City of
28 Albuquerque. A person shall obtain a separate permit for each place of
29 business at which the person acts or transacts business. However, any
30 business engaging in two or more of the regulated business activities need
31 apply for, and the City may issue, only a single permit identifying which
32 activities the business plans to engage in (i.e. pawnbroker and/or precious

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1 material dealer and/or secondhand retailer and/or automated kiosk). Any
2 business operated one or more automated kiosks may be issued a single
3 permit so long as the physical location of each automated kiosk placement is
4 specifically identified.

5 (B) The permit shall be conspicuously displayed in the pawnbroker's,
6 precious material dealer's, secondhand retailer's, or automated kiosk's place
7 of business. The permit will expire on July 1 of each year and must be
8 renewed by that date.

9 (C) Every pawnbroker, precious material dealer, secondhand retailer,
10 and automated kiosk shall pay an annual permit fee of \$250 at the time of
11 issuance of the initial permit and at the time of each annual renewal to help
12 cover the expense of administration of this ordinance. The City shall adjust
13 this fee annually to correspond with increases in the Consumer Price Index
14 for All Urban Consumers (CPI-U). Any business applying for a permit to
15 engage in two or more regulated activities (i.e. pawnbroker and/or precious
16 material dealer and/or secondhand retailer and/or automated kiosk) need only
17 pay a single permit fee. Automated kiosks need only pay a single permit fee
18 for one or more kiosk location, so long as the location of each automated
19 kiosk covered by the permit is specifically identified.

20 (D) Any person doing business as a pawnbroker, precious material
21 dealer, secondhand retailer, or automated kiosk without a permit, is guilty of a
22 misdemeanor and is subject to the penalty provisions set forth in §1-1-99.

23 (E) A person must apply to the City of Albuquerque for a new permit
24 upon any change, directly or beneficially, in the ownership of any pawnshop,
25 precious material dealer, secondhand retail establishment, or automated
26 kiosk. An application for a permit or an application to transfer an existing
27 permit is not required upon any change, directly or beneficially, in the
28 ownership of a pawnshop if one or more holders of at least 90 percent of the
29 outstanding equity interest of the business before the change in ownership
30 continue to hold at least 90 percent of the outstanding equity interest after the
31 change in ownership.

1 (F) Any person who is declined a permit or permit renewal is entitled to
2 a hearing as prescribed under subsection 13-6-10(C) of this ordinance.

3 **§ 13-6-5 ADMINISTRATION; APPLICABILITY OF OTHER LAWS.**

4 The Mayor shall adopt such rules and regulations as necessary for the
5 equitable administration of this article. The permit provided for in this article
6 does not constitute a waiver of any requirement or provision contained in any
7 ordinance of the city or state or federal law.

8 **§ 13-6-6 BOND REQUIRED.**

9 No person shall engage in the business of pawnbroker without having
10 executed and delivered a bond to the city in the sum of \$5,000. The bond
11 shall be in a form approved by the Mayor and shall be conditioned upon the
12 conduct of such pawnbroker's business according to the provisions of this
13 article, the laws of the state and all ordinances of the city. Such bond shall be
14 for the benefit of each and every person damaged by a breach of any
15 condition set forth in the bond. The term of the bond must cover the entire
16 duration of the initial annual permit or annual renewal period. Every
17 pawnbroker shall provide the Mayor with 30 days' notice in writing of
18 cancellation of the bond.

19 **§ 13-6-7 APPLICATION FOR PERMIT; REQUIREMENTS AND ELIGIBILITY.**

20 (A) Annual Application. Each application for a pawnbroker's,
21 precious material dealer's, secondhand retailer's, or automated kiosk permit
22 shall be submitted in writing to the Mayor and be accompanied by the permit
23 fee and the name, address, date of birth and social security number of the
24 applicant and each agent, manager, and controlling person, together with the
25 physical address of the associated store premise. Automated kiosks must
26 identify the physical location all offsite storage facilities, if any, used to store
27 items retrieved from the automated kiosk during the 15 day hold period
28 required by this ordinance. Changes in such information must be indicated
29 on each annual renewal application. Every pawnbroker shall furnish with
30 each application for an initial or renewal permit proof of execution and
31 delivery of the bond to the City Clerk's Office as required in § 13-6-6.

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1 (B) To be eligible for a pawnbroker's, precious material dealer's,
2 secondhand retailer's, or automated kiosk permit, at the time of each
3 application or renewal, an applicant must conduct business within the
4 requirements and spirit of this ordinance and all other applicable laws, and
5 never have had a pawnbroker's, precious material dealers, secondhand
6 retailer's, or automated kiosk permit revoked by the City or any other
7 jurisdiction.

8 (C) The City shall perform a criminal background check on each
9 applicant and controlling person for a pawnbroker's, precious material
10 dealer's, second hand retailer's, or automated kiosk permit. In deciding
11 whether to issue a permit the City may deny a permit to an applicant based on
12 criminal history only as regulated and authorized by New Mexico Criminal
13 Offender Employment Act., NMSA 1978 § 28-2-1 et. seq. However, no person
14 who has been convicted of a felony shall be eligible for a pawnbroker's permit
15 pursuant to NMSA 1978 § 56-12-4.

16 § 13-6-8 RECORDS AND REPORTS BY PAWNBROKERS; PENALTIES.

17 (A) Records for Covered Transactions. Every pawnbroker, precious
18 material dealer, secondhand retailer, and automated kiosk shall keep a record
19 of each covered transaction made in the order in which each occurs. This
20 record shall be made on a digital form or database in a format approved by
21 the Chief of Police, and shall be preserved and made accessible to any
22 property unit enforcement official by 12:00 noon on the business' next
23 business day after the covered transaction occurred, and remain so available
24 during normal business hours for a period of two years. Each entry must also
25 be uploaded or otherwise linked to the Albuquerque Police Department's
26 electronic "leads online" system or any future equivalent administered by the
27 APD by 12:00 noon of the business' next business day following the day of
28 the covered transaction. Each entry shall include:

- 29 (1) A transaction number, and the date, time and type of
30 transaction (pledge or purchase);
- 31 (2) A brief description of the item; including make, model and
32 serial number (if available) together with a photograph of the item, a single

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1 photograph is sufficient for any covered transaction for a collection of like
2 items;

3 (3) The name, address and the date of birth of the pledger or
4 seller as indicated on a valid government-issued photo identification card, a
5 notation as to the type of identification card, the jurisdiction that issued the
6 same and the identification card number; and

7 (4) A clear, discernible, color still image of the pledger or seller
8 that clearly depicts a full face view of the person taken in any form as
9 approved by the Chief of Police including by a still image camera, or from still
10 frame from a video surveillance camera of reasonable quality. Alternatively,
11 APD may approve a pawnbroker, precious material dealer, or secondhand
12 retailer's use of a video surveillance system on a case by case basis where
13 the system is designed to, and effectively does:

14 (a) capture a clear, discernible, color image of the full face of the
15 pledger or seller at the time of the covered transaction (as opposed to at the
16 time of entry to the establishment);

17 (b) includes an accurate time and date stamp that can be related
18 to the time of, and associated with, the respective covered transaction, and

19 (c) where the footage is retained for a period of 90 days and made
20 available for inspection to property unit enforcement officials during this time.

21 (B) All transactions completed by an automated kiosk must be
22 monitored and approved by a live representative in real time.

23 (C) The information required under subsection '(A)(3)' above may be
24 collected for each transaction, or may be collected only for the initial
25 transaction so long as each subsequent transaction with the same person is
26 linked or otherwise includes the information already on file. The information
27 required under subsections '(A)(1), (2) and (4)' above must be collected for
28 each transaction.

29 (D) Records for Transactions with Permitted Vendors, and other
30 Regulated Businesses. Every pawnbroker, precious material dealer, and
31 secondhand retailer shall keep a record of each transaction for a covered
32 secondhand good with a permitted vendor, or another pawnbroker, precious

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1 material dealer, or secondhand retailer, which record must include only an
2 invoice specifying the permitted vendor's name, address, and the date of the
3 sale to the pawnbroker, precious material dealer, or secondhand retailer.

4 (1) However, any transactions for covered secondhand goods
5 with a permitted vendor having any owners or employees in common with any
6 pawnbroker, precious material dealer, or secondhand retailer are subject to
7 the reporting requirements for covered transactions prescribed under
8 subsection 'A' above.

9 (E) Records for Estate Purchases. Every pawnbroker, precious material
10 dealer, and secondhand retailer shall keep a record for any covered
11 secondhand goods acquired through an estate sale to include a sales slip or
12 equivalent with typical and customary information for such a transaction.

13 (F) In addition to any other penalty authorized by this ordinance or
14 other law, any person who knowingly and willfully violates this §13-6-8, or
15 who knowingly and willfully makes a false entry in any record specifically
16 required by this section commits a violation punishable as provided in § 1-1-
17 99. However, Clerical or recordkeeping errors, such as typographical errors
18 or scrivener's errors, regarding any document or record required by this
19 section do not constitute a knowingly and willful violation of this section, and
20 are not subject to criminal penalties. Such errors are, however, subject to the
21 administrative remedies of this ordinance, and upon written notification of the
22 error by a property unit enforcement official, such errors must be corrected
23 by the pawnbroker, precious material dealer, secondhand retailer, or
24 automated kiosk by the business' next business day.

25 **§ 13-6-9 INSPECTION; PROPERTY CRIME DATA SHARING.**

26 (A) Inspection. Any property unit enforcement official may inspect any
27 store premises including safes, vaults, and storage spaces therein during
28 normal business hours and have free access to all covered secondhand
29 goods, and the corresponding transaction records required by this ordinance.
30 The business being inspected may escort the property unit enforcement
31 official throughout the inspection process. Each automated kiosk shall
32 comply with a request to remotely open an automated kiosk to permit a

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1 property unit enforcement official to inspect the items therein within twenty-
2 four hours of the request.

3 (B) Property unit enforcement officials shall develop a system that
4 facilitates coordination and information sharing with pawnbrokers, precious
5 material dealers, secondhand retailers, and automated kiosks to provide
6 updates on current known property crime offenders and articles of personal
7 property suspected to have been the subject of theft as frequently as
8 possible.

9 § 13-6-10 NOTICE OF VIOLATION; NOTICE OF HEARING; HEARINGS;
10 CONTINUANCE; ORDER; PENALTIES.

11 (A) Notice of Violation. If a property unit enforcement official
12 reasonably believes that a pawnbroker, precious material dealer, secondhand
13 retailer, or automated kiosk has violated any one or more provisions of this
14 Article, such official shall serve written notice upon the same of the alleged
15 violation (the “notice of violation”). The notice requirement is satisfied if
16 personal service of same is had upon the pawnbroker, precious material
17 dealer, secondhand retailer’s designated agent or is posted in a conspicuous
18 place upon the pawnbroker, precious material dealer, or secondhand
19 retailer’s place of business. A notice of violation issued to an automated
20 kiosk must be electronically mailed to the automated kiosk’s designated
21 agent.

22 (1) The notice of violation shall specify the provisions of this
23 ordinance which have been allegedly violated, and shall set forth with
24 reasonable clarity the factual basis for each alleged violation, and shall state
25 that an administrative hearing will be scheduled by the City and that a notice
26 of the hearing will be mailed to the pawnbroker, precious material dealer,
27 secondhand retailer’s, or automated kiosk’s place of business or address of
28 record with the City by certified mail in accordance with this ordinance.

29 (2) The property unit enforcement official shall provide the City
30 Clerk with a copy of the notice of violation for transmission to the City
31 Independent Office of Hearings within three business days of the notice of
32 violation being served.

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1 **(B) Hearing and Penalties Relating to a Notice of Violation.**

2 **(1) Hearing.** Any person in receipt of a notice of violation, and
3 any other interested person, may appear and produce evidence at any
4 administrative hearing relating to a notice of violation. The final order of the
5 City’s administrative hearing officer on such matter constitutes the final
6 administrative adjudication of the matter by the City.

7 **(a) Notice of Hearing.** Within three business days of its
8 receipt of the notice of violation, the City Independent Office of Hearings shall
9 mail a notice of the hearing to the pawnbroker, precious material dealer,
10 secondhand retailer, or automated kiosk’s designated agent and the property
11 unit enforcement official who delivered the notice of violation, via certified
12 mail. The notice shall specify the location of the hearing, a date and time for
13 the hearing that is between fifteen and twenty days from its mailing of the
14 notice of hearing. Such notice shall briefly state the nature of the hearing and
15 that failure to attend may result in an automatic fine.

16 **(b) Continuance.** A first continuance of the hearing may be
17 ordered by the hearing officer assigned to hear the matter upon a showing of
18 good cause by any party. Any subsequent continuance request may be
19 granted only with the consent of all parties to the matter.

20 **(c) Order.** Within five (5) days of the conclusion of the
21 hearing, the hearing office shall issue a final written order that identifies the
22 penalties authorized by subsection ‘B(2)’ below that are being imposed (if
23 any) relating to the allegations from the notice of violation.

24 **(2) Findings Required for Imposition of Penalty.** The hearing
25 officer may enter an order imposing one or more of the penalties set forth in
26 paragraph (3), below, if it is found that a pawnbroker, precious material
27 dealer, or secondhand retailer, or automated kiosk violated or is operating in
28 violation of any of the provisions of this ordinance.

29 **(3) Penalties.** Upon finding a violation, the hearing officer may
30 enter an order imposing one or more of the following:

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1 (a) Ordering a pawnbroker, precious material dealer,
2 secondhand retailer, or automated kiosk to show proof of compliance within a
3 reasonable timeframe;

4 (b) Imposing a fine of up to \$500 for a first violation, and up
5 to a \$1,000 for any subsequent violations depending on the severity;

6 (c) Ordering that the pawnbroker, precious material dealer,
7 secondhand retailer, or automated kiosk cease and desist specified activities;
8 or

9 (d) If the violation(s) are determined to be severe and
10 irredeemable, ordering that the pawnbroker's, precious material dealer's,
11 secondhand retailer's, or automated kiosk's permit be revoked or not
12 renewed. If revocation is ordered for a pawnbroker, precious material dealer,
13 secondhand retailer, or automated kiosk it will be effective no sooner than
14 120 days from the date of the order to allow for winding-down of the business
15 including redemption of pawn inventory by rightful owners. No new loans or
16 purchases may be done during this time, only sales and redemption.

17 (C) Hearing and Penalties relating to Permit Issuance or Renewal.

18 (1) After an initial denial of a pawnbroker, precious material
19 dealer, secondhand retailer, or automated kiosk license or renewal by the
20 City, the denied applicant may request a hearing. After notice and hearing,
21 the City may decline to issue or renew a pawnbroker, precious material
22 dealer, secondhand retailer, or automated kiosk permit if it is determined that:

23 (a) The pawnbroker, precious material dealer, secondhand
24 retailer, or automated kiosk either knowingly or without the exercise of due
25 care, has violated this section or has aided or conspired with another person
26 to violate this section;

27 (b) A condition exists that, had it existed when the permit
28 was originally issued, would have justified the refusal to issue the permit; or

29 (c) The pawnbroker, precious material dealer, secondhand
30 retailer, or automated kiosk no longer meet the eligibility requirements to hold
31 a permit; or

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1 (2) Any pawnbroker, precious material dealer, secondhand
2 retailer, or automated kiosk may surrender a permit by delivering it, by
3 certified or registered mail, return receipt requested, to the City Clerk’s Office
4 with written notice of its surrender. The surrender of a permit does not affect
5 the civil or criminal liability of the pawnbroker, precious material dealer, or
6 secondhand retailer for acts committed before the surrender of the permit.

7 (3) The revocation or surrender of a permit does not impair or
8 affect the obligation of any preexisting lawful contract between the
9 pawnbroker and any pledger of pledged goods.

10 (D) Notwithstanding any other provision of this section, the City may
11 terminate an investigation or action upon agreement by the pawnbroker,
12 precious material dealer, secondhand retailer, or automated kiosk to pay a
13 stipulated civil penalty, to make restitution or pay damages to customers, or
14 to satisfy any other relief authorized under this subsection and requested by
15 the City.

16 **§ 13-6-11 DISPOSITION OF PROPERTY; PAYMENT FOR PROPERTY.**

17 (A) No pledged goods shall be sold or disposed of, except by
18 redemption, by any pawnbroker within 120 days from the time it was pledged
19 with the pawnbroker or within 90 days after the indebtedness becomes due,
20 whichever is later.

21 (B) It is unlawful for any pawnbroker, precious material dealer,
22 secondhand retailer, or automated kiosk to sell, or otherwise dispose of, alter
23 in any way, or remove any covered secondhand goods from the store
24 premises, except by redemption, within 15 days from the date said covered
25 secondhand goods were received. Automated kiosks shall retain all covered
26 goods at the kiosk location or other storage location that was specifically
27 identified as part of the permit application.

28 **§ 13-6-12 UNLAWFUL TRANSACTIONS.**

29 (A) No pawnbroker, precious material dealer, secondhand retailer, or
30 automated kiosk shall:

31 (1) Knowingly and willfully enter into a covered transaction with a
32 person under the age of eighteen years, or under the influence of alcohol, any

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1 narcotic, drug, stimulant or depressant or any person who previously sold or
2 pawned, or attempted to sell or pawn, stolen property with the pawnbroker,
3 precious material dealer, secondhand retailer, or automated kiosk;

4 (2) In, the case of a pawnbroker, fail to exercise reasonable care
5 to protect pledged goods from loss or damage;

6 (3) Remove, alter, or obliterate any manufacturer's make, model,
7 or serial number, personal identification number on an item of personal
8 property held in pledge or for sale;

9 (4) Accept any item in a covered transaction where the
10 manufacturer's name plate, make, model, serial number, identification number
11 or mark has been obviously defaced, altered, covered, removed, or destroyed;

12 (5) Purchase or otherwise receive any item of property which the
13 pawnbroker, precious material dealer, secondhand retailer, or automated
14 kiosk knows is not lawfully owned by the person offering the same; or

15 (6) Willingly and knowingly make, cause, or allow to be made any
16 false entry or misstatement of any corresponding transaction records
17 required to be kept under this ordinance.

18 § 13-6-13 HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION; DISPUTED
19 OWNERSHIP; PROCEDURES.

20 (A) When any law enforcement officer has probable cause to believe that
21 property in possession of a pawnbroker, precious material dealer, secondhand
22 retailer, or automated kiosk is misappropriated, the officer may place a hold
23 order on the property for a reasonable period of time, not to exceed thirty (30)
24 days.

25 (B) No pawnbroker, precious material dealer, secondhand retailer, or
26 automated kiosk shall release or dispose of property subject to a hold order
27 except pursuant to a court order or a written release from the police
28 department.

29 (C) Where the rightful ownership of seized property is disputed, any
30 interested person may request a hearing to determine the issue of ownership
31 before the City Independent Office of Hearings by filing a request with the City
32 Clerk's Office. Upon its receipt of such a request, the City Independent Office

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1 of Hearings shall notify the law enforcement officer involved in the matter,
2 who shall deliver the contact information for all known interested parties
3 within three days of being notified. Within three days of receiving this
4 information, the City Independent Office of Hearings shall issue a notice of
5 hearing to the officer and all known interested parties. The notice shall
6 specify the location of the hearing, and a date and time for the hearing that is
7 between fifteen and twenty days from its mailing of the notice of hearing.
8 Such notice shall briefly state the nature of the hearing and that failure to
9 attend by any party may result in a decision adverse to their interests.

10 § 13-6-14 EXEMPTIONS. Nothing herein shall be construed as applying to:

- 11 (A) Charitable thrift stores;
- 12 (B) Charitable organizations;
- 13 (C) Consignment stores;
- 14 (D) Any business dealing exclusively in rare or valuable coins;
- 15 (E) Any businesses operating exclusively as an estate purchaser and/or
16 reseller.

17 SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause,
18 word or phrase of this Ordinance is for any reason held to be invalid or
19 unenforceable by any court of competent jurisdiction, such decision shall not
20 affect the validity of the remaining provisions of this Ordinance. The Council
21 hereby declares that it would have passed this Ordinance and each section,
22 paragraph, sentence, clause, word or phrase thereof irrespective of any
23 provision being declared unconstitutional or otherwise invalid.

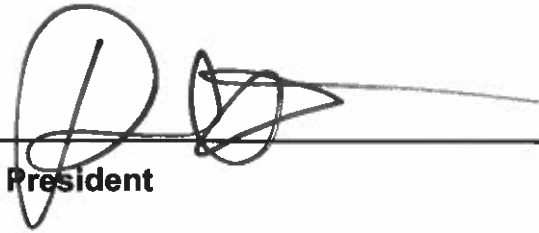
24 SECTION 4. COMPILATION. Sections 1 and 2 of this Ordinance shall
25 amend, be incorporated in and compiled as part of the Revised Ordinances of
26 Albuquerque, New Mexico, 1994.

27 SECTION 5. EFFECTIVE DATE. This ordinance will be published by title
28 and general summary upon enactment, and takes effect on July 1, 2021.
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1 PASSED AND ADOPTED THIS 2nd DAY OF November, 2020
2 BY A VOTE OF: 8 FOR 1 AGAINST.

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4
5 **Against: Harris**


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8 
9 _____
10 **Patrick Davis, President**
11 **City Council**

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13
14 APPROVED THIS 10 DAY OF October, 2020

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16
17 **Bill No. F/S O-20-28**

18
19 
20 _____
21 **Timothy M. Keller, Mayor**
22 **City of Albuquerque**

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25
26 **ATTEST:**

27 
28 _____
29 **Ethan Watson, City Clerk**

[+ Bracketed/Underscored Material +] - New
[- Bracketed/Strikethrough-Material -] - Deletion

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