

ORDINANCE NO. 2020-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTER 11 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 11-82 PERTAINING TO PEDDLERS, SOLICITORS; LICENSE REQUIRED; BY AMENDING SECTION 11-83 PERTAINING TO LICENSES; APPLICATION; CRIMINAL HISTORY BACKGROUND CHECK REQUIRED; BY AMENDING SECTION 11-84 PERTAINING TO PEDDLERS, SOLICITORS; ISSUANCE OF REGISTRATION CARDS; BY AMENDING SECTION 11-85 PERTAINING TO PEDDLERS, SOLICITORS; DISPLAY OF LICENSE; BY AMENDING SECTION 11-121 PERTAINING TO SECONDHAND SALES; DEFINITIONS; BY AMENDING SECTION 11-122 PERTAINING TO SECONDHAND SALES; LICENSE REQUIRED; VIOLATION; CLASSIFICATION; CIVIL PENALTIES; BY AMENDING SECTION 11-123 PERTAINING TO SECONDHAND SALES; DISPLAY OF LICENSE; DURATION; RENEWAL; TRANSFER; FEES; BY AMENDING SECTION 11-124 PERTAINING TO SECONDHAND SALES; APPLICATIONS-FORMS; FEES; BY AMENDING SECTION 11-125 PERTAINING TO SECONDHAND SALES LICENSE; SUSPENSION; REVOCATION; BY AMENDING SECTION 11-126 PERTAINING TO SECONDHAND SALES; SPECIAL REQUIREMENTS - AUCTION HOUSES AND SECONDHAND DEALERS; BY AMENDING SECTION 11-127 PERTAINING TO PAWNBROKER; SPECIAL REQUIREMENTS; BY AMENDING SECTION 11-128 PERTAINING TO SCRAP METAL DEALERS; SPECIAL REQUIREMENTS; BY AMENDING SECTION 11-129 PERTAINING TO SECONDHAND SALES; POLICE OFFICER HOLD ON PROPERTY; BY AMENDING SECTION 11-133 PERTAINING TO STOLEN PROPERTY; INITIATION OF PETITION; BY AMENDING SECTION 11-139 PERTAINING TO PAWNBROKER TRANSACTION FEE; DEFINITIONS; BY AMENDING SECTION 11-140 PERTAINING TO PAWNBROKER TRANSACTION FEE; IMPOSITION; BY AMENDING SECTION 11-141 PERTAINING TO PAWNBROKER TRANSACTION FEE; REPORTING AND PAYMENT OF FEE; BY AMENDING SECTION

11-142 PERTAINING TO PAWNBROKER TRANSACTION FEE; VIOLATIONS AND PENALTIES; BY AMENDING SECTION 11-143 PERTAINING TO PAWNBROKER TRANSACTION FEE; JURISDICTION OF COURT; BY ENACTING SECTION 11-147 PERTAINING TO SECONDHAND SALES; TRANSACTION WITH MINORS; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-82 pertaining to Peddlers, solicitors; license required and which shall read as follows:

Sec. 11-82. Peddlers, solicitors; license required.

Any person operating as a solicitor, peddler, hawker, salesman or vendor of goods, wares, merchandise, newspapers, magazines or services, who goes from house to house, or to only one (1) house, in the city, shall register with the police department and obtain an ~~identification card~~ license showing such registration.

SECTION 2. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-83 pertaining to Licenses; application; criminal history background check required and which shall read as follows:

Sec. 11-83. Licenses; application; criminal history background check required.

(a) Each applicant for a license identified in this section that is issued by the City of Peoria shall provide to the chief of police fingerprint identification. The chief of police shall, pursuant to A.R.S. §41-1750 and Public Law 92-184, section 902, forward those fingerprints accompanied by appropriate fees to the Arizona Department of Public Safety and the Federal Bureau of Investigation for the purpose of seeking criminal history information on such applicant. Such information shall be used only for the purposes of evaluating the fitness of the applicant applying for the following types of licenses from the city of Peoria:

Peddlers

Solicitors

Massage therapist

Teletracking

Second hand/junk dealers

Exhibitors

Auctioneers

Auction houses

Massage facilities

Carnivals/circus

Pawnbrokers

(b) The city shall comply with any relevant state and federal, statutes, rules and regulations that may relate to the dissemination of such criminal history information obtained under this section.

(c) Applicants for registration under this code shall be required to furnish two satisfactory photographs of the applicant, one to be attached to the applicants registration card and the other to be retained by the police department.

(d) Applicants for registration under this code shall be required to furnish to the police department a complete description of the product to be sold in the city, together with information regarding sales methods to be used and references that will enable the chief of police or designee to determine whether or not such applicant is qualified to receive a registration card license as provided in this code. Investigation by the chief of police or designee under the provisions of this code shall be completed within ~~fifteen~~ thirty (4530) days after the applicant has given the required information.

(e) The finance department shall collect a fee for the processing of the fingerprints, obtaining criminal history information and the registration provided for in this code in such amounts as provided by this Code.

SECTION 3. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-84 pertaining to Peddlers, solicitors; issuance of registration cards and which shall read as follows:

Sec. 11-84. Peddlers, solicitors; issuance of registration cards license.

Registration cards licenses under this division shall be issued ~~without charge~~ to all applicants who have complied with section 11-83, unless the chief of police or designee discovers that any such applicant is deemed not to be a proper person to be permitted to go from house to house because of any of the following reasons, in which case, in the interest of public safety and protection, the applicant shall not be registered:

(1) The applicant has a criminal record.

- (2) The applicant is associated with a company that has engaged in fraudulent dealings.
- (3) The proposed sales proposition includes some element of trickery, fraud or deceit.

SECTION 4. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-85 pertaining to Peddlers, solicitors; display of license and which shall read as follows:

Sec. 11-85. Peddlers, solicitors; display of license.

It is unlawful to take part in the act of soliciting, peddling, hawking, selling or vending of goods, wares, merchandise, newspapers, magazines or services from house to house, or to only one (1) house, in the city, without having registered with the police department and without having such ~~card-license~~ in his possession. No such person shall fail to exhibit such ~~card-license~~ when a request is made for the ~~registration card-license~~ by any resident of the city.

SECTION 5. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-121 pertaining to Secondhand sales; definitions and which shall read as follows:

Sec. 11-121. Secondhand sales; definitions.

(a) *Applicant*: ~~The person who applies for a License pursuant to this Chapter. The applicant shall be at least eighteen (18) years of age, owning, operating, and/or conducting the business to be licensed, including all persons financially interested in the business, the manager(s) or other individuals(s) principally in charge of the operation of the business, any authorized local agent(s) and the responsible managing officer designated pursuant to this Chapter.~~

(b) *Auctioneer*: Any person who shall operate an auction house or who as a principal or agent, shall offer any article for sale by public outcry and where such items offered are sold immediately to the highest bidder.

(c) *Auction House*: Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

(d) *Automated kiosk*: An interactive device that is installed within a retail space at which used consumer electronic devices are sold, traded, recycled or otherwise received by a person.

(~~e~~) *Business records*: Records of any purchase, trade, barter or other transaction involving the receipt of ~~scrap metals~~ secondhand goods, made in the ordinary course of business at or near the time of the purchase, trade, barter or transaction including receipts, scrap metal transport manifests and books or similar

records as prescribed by this Chapter, but do not include correspondence, tax returns or financial statements.

(f) Consumer electronic device: Any portable electronic or digital device designed to be purchased and used by end users or consumers for daily, non-commercial purposes. Examples of consumer electronic devices include, but are not limited to, cellular telephones, touch screen tablets, laptop computers, smart watches, and digital media players.

(eg) *Ferrous metals:* Those metals that will attract a magnet.

(fh) *Firearm:* Any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive, except that it does not include a firearm in permanently inoperable condition.

(i) License: A license issued to an auctioneer, pawnbroker, scrap metal dealer, or secondhand dealer in accordance with this Chapter.

(i) Licensee: The person owning, operating, and/or conducting the business to be licensed, including all persons with a financial interest in the business, the manager(s) or other individuals(s) principally in charge of the operation of the business, any authorized local agent(s), or any person designated as the "responsible managing officer" under this Chapter. A "person" may be any corporation, company, partnership, firm, association, organization, joint venture, business entity, trust, proprietor, agent, or natural person.

(gk) *Nonferrous metals:* Those metals that will not normally attract a magnet, including copper, brass and aluminum.

(l) Pawnbroker: A person engaged in the business of advancing money on the security of pledged goods or engaged in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed or variable price within a fixed or variable period of time.

(hm) *Pawnshop:* Any establishment in that is carried on the business of pawn brokerage, or the business of loaning money, receiving as security for payment thereof pawns or pledges of property, or the business of purchasing personal property and reselling or agreeing to resell, trade or exchange such articles to vendors, their personal representatives, or their assignees at a price agreed upon at or before the time of such purchase whether such business be the principal or sole business so carried on or be merely incidental to, or in connection with, or a branch or a department of some other business.

(n) Precious item: Has the same definition as in A.R.S. §44-1601.

(io) *Secondhand dealer/Antique dealer:* Any person, other than a person who exclusively deals in secondhand books, magazines, handbills, and/or posters,

engaged in conducting, managing or carrying on the business of buying, selling, trading or exchanging, or otherwise dealing in second hand goods, wares, merchandises, precious items, or articles, whether such business be the principal or sole business so carried on, managed, or conducted or be merely incidental to in connection with, or a branch or a department of some other business. This term includes automated kiosks. This term shall not be construed to include trade-ins, dealers or auctioneers in articles of property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in an appropriate office of state or county government.

(p) *Secondhand goods*: Any new or used property (article) that has been sold, traded, exchanged, consigned or otherwise disposed of by the original owner. The definition of secondhand includes, but is not limited to: (i) old stamps; (ii) old coins and money; (iii) "precious item" as defined in A.R.S. § 44-1601; and (iv) used automotive components when purchased by a "used automotive components dealer" as that term is defined in A.R.S. § 44-1321. The definition of secondhand does not include "numismatic coin" as defined in A.R.S. § 44-1801.

(q) *Second sales*: The business of conducting trade in used goods or property of any kind. This term includes, but is not limited to, trade commonly conducted by the following businesses referenced in this chapter: pawnshops, secondhand dealers, auction houses, swap meets, antique dealers, and scrap metal dealers.

(r) *Trade-in*: The acceptance, sale or disposal of used automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobiles parts taken in part payment for new or reconditioned automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobile parts. Dealers exchanging articles in the course of service or construction work shall not be deemed to constitute the doing of any business defined under this term.

SECTION 6. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-122 pertaining to Secondhand sales; license required; violation; classification; civil penalties and which shall read as follows:

Sec. 11-122. Secondhand sales; license required; violation; classification; civil penalties.

It shall be unlawful for any person to operate within the City any of the secondhand sales businesses as listed and defined in this Chapter without possessing a valid license for each location as provided in this Chapter. ~~A person who deals exclusively in secondhand books, magazines, posters, handbills, records, or cassette tapes is not required to obtain such a license.~~

(a) It shall be unlawful for any person to operate a secondhand sales business while the license for that business has been suspended or revoked.

(b) Violation of this section shall be a class one (1) misdemeanor.

(c) Separate from any criminal penalty imposed for violation of this section, a civil penalty of three times the license fee shall be charged for any individual applying for a license having engaged in operation of a secondhand sales business in the City prior to obtaining a license.

SECTION 7. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-123 pertaining to Secondhand Sales; display of license; duration; renewal; transfer; fees and which shall read as follows:

Sec. 11-123. Secondhand Sales; display of license; duration; renewal; transfer; fees.

(a) All licenses issued under the provisions of this Chapter shall be displayed in a conspicuous place visible to the public.

(b) All licenses unless specifically excepted, shall be issued for a period of one year running from the first day of January through December 31 of each year, when they may be renewed. If an initial license is issued after January 1, then the license shall be good until the December 31, following a January 1 in which the license was in effect. Licenses issued under this chapter are not transferable.

(c) Upon application for a license, a person shall pay a fee in the amount provided by Section 2-220 of Chapter 2 of this Code and Fee Table 27-12.

SECTION 8. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-124 pertaining to Secondhand sales; Applications-Forms; fees and which shall read as follows:

Sec. 11-124. - Secondhand Sales; Applications-Forms; fees.

(a) On a form provided by the City, an applicant for a license listed and defined in this Chapter shall submit the following information to the City.

- (1) The full legal name, and all other names by which known.
- (2) Current residence address and telephone number.
- (3) The name(s) under which the prospective licensee will be doing business.
- (4) Valid proof of age.
- (5) Information as to whether the applicant has ever been refused any similar license or permit has had any similar license or permit issued to such person in Peoria or elsewhere revoked or suspended and the reason therefore.

- (6) All prior criminal convictions, excluding those for traffic offenses.
- (7) Fingerprints.
- (8) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence address and dates of birth of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the names, residence addresses and dates of birth of each of the general partners. If one or more of the general partners in a partnership is a corporation, the provisions of this subsection pertaining to corporations shall apply. The corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer.

(b) The City shall have a reasonable period of time in which to investigate the application and background of the applicant and process the application through other City departments as necessary.

- (c) The City shall ~~grant~~issue the license if all of the following are met:
 - (1) The required fees have been paid.
 - (2) The application conforms in all respects to the provisions of this chapter.
 - (3) The applicant has not made a material misrepresentation of fact in the application.
 - (4) That neither the applicant, if an individual, nor any person financially interested if a business consisting of more than one individual, nor any of the general partners if a partnership, nor the manager or other individual principally in charge of the operation of the business, has been convicted of, pleaded nolo contendere to, or guilty to, any felony or to a misdemeanor involving moral turpitude, within five years prior to the issuance of the license. This subsection shall be inapplicable to an individual whose civil rights have been restored in accordance with law, unless the conviction involves a criminal violation of this chapter.
 - (5) The applicant has not violated of the provisions of the chapter within the five-year period immediately preceding the date of the filing of the application.
 - (6) The applicant has not had a license ~~similar to the one issued pursuant to the provisions of this Chapter~~ issued by another authority jurisdiction, suspended or revoked within the five-year period immediately preceding the date of the filing of this application.
 - (7) The applicant is in compliance with all laws of the City, county and state.

(8) ~~The applicant is at least eighteen years of age.~~

(d) Every application filed pursuant to this chapter shall be reviewed and approved by the Police, Planning and Community Development, and Finance Departments.

(e) The City shall review the criminal history record information, including conviction and non-conviction data, of license applicants for the purpose of evaluating the fitness of prospective licensees. Such information shall be used only for the purpose of such evaluation

(f) The Finance Department shall deny the application if any of the requirements of subsection (c) of this section have not been met. In the event of denial the applicant shall be notified by mail of the denial and the reasons therefore. The applicant may appeal such denial pursuant to the provisions of this Chapter.

SECTION 9. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-125 pertaining to Secondhand Sales License; suspension; revocation and which shall read as follows:

Sec. 11-125. - Secondhand Sales License; suspension; revocation.

(a) Any license issued under the provisions of this Chapter may be suspended by the City for a ~~prescribed~~ any period of time, not to exceed ninety (90) days in the event of a failure ~~on the part of the licensee~~ to comply with the provisions of this Chapter.

(b) Any license issued under the provisions of this Chapter may be revoked by the City in the event of ~~refusal on the part of a licensee~~ failure to comply with the provisions of this Chapter. ~~No license revoked shall be reissued without the payment of a full license fee and application.~~ If a license is revoked, and the licensee files an application for a new license, all applicable fees, costs, and requirements shall be met and no requirements shall be waived.

SECTION 10. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-126 pertaining to Secondhand sales; special requirements; auction houses and secondhand dealers and which shall read as follows:

Sec. 11-126. Secondhand Sales; special requirements—~~auction houses and secondhand dealers.~~

(a) Every person, except organizations that are deemed not for profit under the laws of this state or any other state, engaged in the business of second hand sales shall make out at the time of the transaction a true, complete and legible report of all goods or articles with a fair market value in excess of \$25.00 received on deposit or consignment, trade or exchange, or by purchase. The report shall be delivered within twenty-four hours to the City by electronic means as approved by the City. ~~The report shall be made upon forms furnished by the City and shall be~~

~~delivered by to the City within twenty-four hours after receipt of the property concerned. Delivery of the report to the City is accomplished when the report is delivered in person or when the report is deposited in the United States mail addressed to the Police Department of the City. The reporting party shall retain on the premises of the business for six months from the date of the transaction his copy of the report. Each report shall contain the same information required by Section 11-127 of this Chapter for each item received:~~

- ~~(1) An accurate description of the property including brand name and serial number, if any. The word "scrap" shall not constitute a description under the subsection.~~
- ~~(2) The amount paid for the property, or amount allowed in trade.~~
- ~~(3) The date and time when the property was received.~~
- ~~(4) A statement in 10 point bold type, signed by the person from whom the property was received, which reads as follows:~~

~~All information in this complete and accurate. I am the owner of goods described in this report that I pledged, sold, or consigned or I am authorized to enter into this pawn, sale or consignment transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a Class 1 misdemeanor if the information in this report is not complete and accurate or I am not the owner of the goods pledged, sold or consigned or I am not authorized to enter into the pawn, sale or consignment transaction on behalf of the owner of such goods.~~

- ~~(5) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.~~
- ~~(6) A description of such person, consisting of height, weight, race, complexion and hair color.~~

(b) An auction house or secondhand dealer shall retain any property obtained in a reportable transaction at its place of business, or other storage location approved by the City for a period of ~~ten~~ twenty (20) calendar days after making out and delivering to the City the report required under subsection (a) above. Any article held in custody retained pursuant to this subsection shall not be altered or transformed in any way but shall be held in the same condition in which it was delivered to the reporting party.

(c) Subsections (a) and (b) of this section shall not apply to transactions falling within any one or more of the following categories.

(1) Purchases by a secondhand dealer or auction house from a business with a fixed business location of either business inventory or business equipment, provided that the licensee acquires at, or has previously acquired by, the time of the transaction, all of the following:

- (i) The name and address of the business.
- (ii) The state and local transaction privilege tax license number of the business, if applicable.
- (iii) A copy of the invoice or other document showing the business' bona fide purchase of or right to possess the article sold, or a representative of the business with apparent authority to act in behalf of the business for purposes of this subsection has completed and signed the report required in subsection 9(a) of this section in all its particulars, notwithstanding the amount of the transaction.

(2) Purchases of household items by a secondhand dealer or auction house from a place of residence, provided that all of the following apply:

- (i) The purchase is made by the licensee by check or other negotiable instrument made payable to the seller, or the purchase is made in cash and the licensee has obtained a receipt for that cash payment ~~from~~ from the seller bearing the seller's name and address, verified to be accurate by the licensee from the identification of the type listed in subsection ~~(a)5 of this section~~ 11-127(C)4.
- (ii) The seller has produced for the licensee's inspection documentary evidence that would establish to the satisfaction of a reasonable person that the seller is either the lawful occupant of the premises or has the legal right to sell the items being offered for sale. The licensee shall record from the documentary evidence produced a description of the document, including the name or nature of the document, and, to the extent available, its date, the individual's name and address thereon, and any account number appearing thereon.

(iii) Notwithstanding the \$25.00 rule of subsection (a), ~~the a~~ licensee shall ~~records~~ the serial numbers and descriptions of all items bearing serial numbers.

~~(de)~~ Every person engaged in the business of secondhand sales shall record the description of every article sold for an amount of One Hundred Dollars (\$100) or more. He shall also record the name and address of the purchaser of such articles. This record shall be held by the secondhand dealer for at least thirty days after the sale. ~~This record shall be held by the secondhand dealer for at least thirty days after the sale.~~

~~(e)~~ — Each auction house and secondhand dealer shall maintain a copy of this code section on the premises at all times and shall make it available upon request to any employee or customer of that auction house or secondhand dealer and to local law enforcement.

(f) The business premises of any auction house or secondhand dealer, along with their transaction record and stock of goods and articles shall be open to reasonable inspection by any peace officer of this state when the business premises are lawfully occupied and during regular business hours.

(g) Any person violating any of the provisions of this section, shall be strictly liable. No culpable mental state is required.

(h) Notwithstanding any other provisions of this section, the license of any auction house or secondhand dealer, may be suspended for a period not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 11 of the Peoria City Code or Sections 13-1802 and 13-2307, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of any employee under A.R.S. §13-1802 for an act of theft committed against that employee's own auction house or secondhand dealer shall not be the basis for suspension under the subsection.

(i) No person engaged in the business of auction house or secondhand dealer shall knowingly permit a person whose license is under suspension under subsection (h) above to be employee in any capacity of such establishment.

(j) The reporting requirements of subsection (a) of this section on goods and articles received on deposit or consignment, trade or exchange, or by purchase shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.

SECTION 11. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-127 pertaining to Pawnbrokers; special requirements and which shall read as follows:

Sec. 11-127. Pawnbrokers; special requirements.

(a) A pawnbroker shall make a true, complete and accurate report each day of each article the pawnbroker receives through a reportable transaction. The report shall be delivered within two (2) business days to the City by electronic means as approved by the City. ~~Every person, except non-profit organization, engaged in~~

~~the business of pawnbroker shall make out at the time of the transaction a true, complete and legible report of all goods or articles with a fair market value in excess of \$25.00 received on deposit or consignment, in pawn, pledge, trade or exchange or by purchase. The report shall be made upon forms furnished by the City and shall be delivered to the City within twenty four hours after receipt of the property concerned. Delivery of the report to the City is accomplished when the report is delivered in person to the Finance Department or when the report is deposited in the United States mail addressed to the Police Finance Department of the City. The reporting party shall retain on the premises of the business for six months from the date of the transaction his copy of the report. Each report shall contain for each item received:~~

- ~~(1) An accurate description of the property including brand name and serial number, if any. The word "scrap" shall not constitute a description under the subsection.~~
- ~~(2) The amount paid for the property, or amount allowed in trade.~~
- ~~(3) The date and time when the property was received.~~
- ~~(4) A statement in 10 point bold type, signed by the person from whom the property was received, which reads as follows:~~

~~All information in this complete and accurate. I am the owner of goods described in this report that I pledged, sold, or consigned or I am authorized to enter into this pawn, sale or consignment transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a Class 1 misdemeanor if the information in this report is not complete and accurate or I am not the owner of the goods pledged, sold or consigned or I am not authorized to enter into the pawn, sale or consignment transaction on behalf of the owner of such goods.~~

- ~~(5) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.~~
- ~~(6) A description of such person, consisting of height, weight, race, complexion and hair color.~~
- ~~(7) The printed name, address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other valid photo~~

~~identification, including the serial or identification number of such valid document sufficient to verify the information required by the subsection.~~

- (8) ~~A description of such person, consisting of height, weight, race, complexion and hair color.~~

~~(b) The reporting requirements of subsection (a) of this section on goods and articles received on deposit or consignment, trade or exchange, or by purchase shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code. A pawnbroker shall retain any property obtained by purchase in its original form for ten calendar days after the original transaction date at the pawnbroker's place of business or other storage location approved by the City. This subsection shall not apply to redemption of pawned or pledged articles.~~

~~(c) The pawnbroker shall make the report of each item received through a reportable transaction on the form provided or approved by the City.~~

~~(ed) Every person engaged in the business of pawnbroker shall conspicuously place a sign within the business premises in a place where it is likely to be read by patrons, which shall read as follows:~~

NOTICE

~~All transactions involving property with a fair market value over \$25.00 are reported to local law enforcement.~~

~~———— This sign should be composed of block, capital letters printed in black on white paper at a minimum weight of one hundred ten pound index. The lettering shall consume a space at least six inches by nine inches. The letters comprising the word "Notice" shall be at least one-half of a vertical inch. The City shall prepare the signs required by this subsection and make them available at no charge to all pawnbrokers. The report form provided or approved by the City shall include at least all of the following:~~

- ~~(1) The last, first and middle name of the pledgor or seller.~~
- ~~(2) The permanent address and telephone number, if applicable, of the pledgor or seller.~~
- ~~(3) The physical description of the pledgor or seller including height, weight, hair and eye color, sex, race and date of birth.~~
- ~~(4) The number and type of the identification document presented by the pledgor or seller. "Identification document" means a valid driver license, a valid non-operating identification license, a valid armed forces identification card or any other valid government issued photo identification.~~

- (5) An accurate, legible description of each item pledged or sold, including the manufacturer's name, model number, serial number, caliber, size, type of item and any owner applied number, inscription or monogram.
- (6) The pawnbroker's name and address and the clerk's initials or identifying number.
- (7) The date and time of the initial pawn or purchase transaction.
- (8) The type of transaction and initial pawn ticket number.
- (9) A comparable quality fingerprint of the pledgor or seller taken via electronic means.
- (10) A clear photograph of the pledgor or seller at the time of transaction, and a scan or photograph of their presented identification.
- (11) A clear photograph of each item in the transaction including any damage or owner applied marks.

(e) The pledgor or seller shall sign the report and attest to the following statement that shall appear on the report in ten point bold type:

All information in this report is complete and accurate. I am the owner of the goods described in this report or I am authorized to enter into this pawn or sale transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a class 1 misdemeanor if the information in this report is not complete and accurate, if I am not the owner of the goods pledged or sold or if I am not authorized to enter into the pawn or sale transaction on behalf of the owner of the goods.

(df) The business premises of any auction house, secondhand dealer or pawnbroker, along with their transaction record and stock of goods and articles shall be open to reasonable inspection by any peace officer of this state when the business premises are lawfully occupied and during regular business hours.

(eg) Any person violating any of the provisions of this section, shall be strictly liable. No culpable mental state is required.

(fh) Notwithstanding any other provisions of this section, the license of any pawnbroker, may be suspended for a period not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 11 of the Peoria City Code or Sections 13-1802 and 13-2307, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of any employee under A.R.S. §13-1802 for an act of theft committed against that employee's own pawnbroker shall not be the basis for suspension under the subsection.

~~(g)~~ No person engaged in ~~the~~who owns or operates a business of pawnbroker shall knowingly permit a person whose license is under suspension under ~~subsection (f) above to be~~ an employee in any capacity of such establishment.

~~(h) The reporting requirements of subsection (a) of this section on goods and articles received on deposit or consignment, trade or exchange, or by purchase shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.~~

SECTION 12. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-128 pertaining to Scrap Metal Dealers; special requirements and which shall read as follows:

Sec. 11-128. Scrap Metal Dealers; special requirements.

~~(a) All scrap metal dealers who own or operate in the City of Peoria shall be subject to all regulatory requirements in Title 44 of the Arizona Revised Statutes, Article 3.1, Scrap Metal Dealers. Every scrap metal dealer shall keep on the business premises a book or other similar record legibly printed or written in ink in the English language of each transaction exceeding \$25.00 dollars involving the receipt of scrap metal shall include the following information.~~

~~(1) An identifying description and weight of the specific metal received.~~

~~(2) The date, time and place of the transaction.~~

~~(3) The seller's name, address, physical description including gender, height, weight, race, eye and hair color, date of birth, signature and a driver's license number or a photo copy of a valid government issued photo identification card.~~

~~(4) The dollar amount paid.~~

~~(5) The number and state of issuance of the license on the vehicle used to deliver the material.~~

~~(6) The peddler license number of the transaction privilege tax number.~~

~~(b) The record required by subsection (a) of this section and the entries therein shall be retained in a book or similar record at the business premises one year after making the final entry of any transaction and shall be retained either at the business premises or any other reasonable available location for an additional year.~~

~~(c) A scrap metal dealer shall not purchase materials for which a record is required to be kept by subsection (a) of this section in a series of purchases under \$25.00 dollars for purposes of avoiding the requirements of subsection (a) of this section.~~

~~(d) — Within twenty-four hours of receipt of scrap metals, except from an industrial account or a scrap metal dealer, for which a record is required to be kept by subsection (a) of this section, a scrap metal dealer shall deliver to the Police department a record of the receipt of the scrap metals. The record shall indicate the following information:~~

~~(1) — The date, time and place of receipt of the scrap metal.~~

~~(2) — An identifying description of the specific scrap metal received including the weight and amount paid or other consideration given.~~

~~(3) — A description of the party delivering the metal to the scrap metal dealer including the party's gender, height, weight, race, hair and eye color, address, date of birth and driver's license number and state of issuance of license.~~

~~(4) — The number or letters and state/country of issuance of the license on the vehicle used to deliver the scrap metal.~~

~~(5) — The peddler license number if the scrap metal is received from a peddler.~~

~~(e) — A scrap metal dealer shall hold in its custody in the same size, shape and condition in which the nonferrous scrap metal was received on its business premises any nonferrous scrap metal received in a reportable transaction for ten days after filing the report prescribed by subsection (d) of this section. This subsection does not apply to transactions with industrial accounts, other scrap metal dealers, a holder of a peddler license furnishing evidence of the license including the license number and a scrap metal transport manifest, purchases by scrap metal dealers of used beverage containers or ferrous scrap metals and scrap metal authorized for release by a peace officer of that jurisdiction.~~

~~(f) — No culpable mental state need be shown in order to take civil enforcement action a scrap metal dealer licensee as provided in this code, provided that any civil enforcement action taken as a result of the destruction of any record required to be kept pursuant to this section shall require a showing that the action was taken knowingly.~~

~~(g) — A scrap metal dealer shall maintain a copy of this code section on the premises at all times and shall make it available upon request to any employee or customer of that scrap metal dealer and to local law enforcement.~~

~~(h) — A scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this section and the business inventory, shall be open during regular business hours for reasonable inspection by a peace officer. Before an inspection shall take place, a peace officer shall first identify himself and the purpose for the inspection to the scrap metal dealer, dealer's manager or other responsible person and comply with all~~

~~reasonable and customary safety requirements of that scrap metal dealer for the business premises inspected. The scrap metal dealer may require the peace officer to sign an inspection log that will include his name, serial or badge number, time, date and purpose of the inspection.~~

~~(i) — A scrap metal dealer who fails in any respect to keep a book or similar record prescribed by this section or to set out in a book or similar record any matter under this section or who refuses, upon demand of any peace officer of this state, to exhibit a book or similar record, business record, receipt or transaction record, or who knowingly destroys a book or similar record within two years after making the final entry of any transaction or who otherwise fails to comply with this chapter is guilty of a class one misdemeanor.~~

(j) Notwithstanding any other provisions of this section, the City business license of any scrap metal dealer may be suspended for a period of not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 11 of the Peoria City Code, or any of the provisions of Sections 13-1802, 13-2307, 28-323, 38,326, 445-1642, 44-1643 or 44-1644, Arizona Revised Statutes, in the conduct of business of such establishment. The conviction of an employee under A.R.S. Section 13-1802 for an act of theft committed against that employee's own scrap metal dealer shall not be the basis for suspension under this subsection.

(k) No person engaged in the business of scrap metal dealer shall knowingly permit a person whose license is under suspension under subsection (j) above to be employee in any capacity of such establishment.

~~(l) The reporting requirements of subsection (a) of this section for any article received by a scrap metal dealer in trade, exchange or by purchase, shall not apply to organization qualified under Section 501(c) of the United States Internal Revenue Code.~~

SECTION 13. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-129 pertaining to Secondhand Sales; police officer hold on property and which shall read as follows:

11-129. Secondhand Sales; police officer hold on property.

(a) Whenever any peace officer has probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, scrap metal dealer or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ninety (90) days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice provided in person or mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house business within two five (25) days, excluding weekends and City and Federal holidays on which the United States Mail is closed. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable. Written notice may be delivered electronically.

including fax or email, to the business owner or designee on file with the police department. If written notice is not issued within five (5) business days, the hold shall be terminated. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable.~~If no written notice is issued after the second day the hold is terminated.~~ During the hold period, the ~~business pawnbroker, secondhand dealer, scrap metal dealer or auction house~~ shall not release, alter, change, damage of or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by the Chief of Police or his designee of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the ~~pawnbroker, secondhand dealer, scrap metal dealer or auction house~~business shall tag and mark the item placed on hold, name of law enforcement agency placing the hold and law enforcement report number. A pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not be subject to civil liability for compliance with this section. If a ~~pawnbroker, secondhand dealer, scrap metal dealer or auction house~~business believes that a hold has been wrongfully imposed, an appeal of such hold may be filed in the manner provided for disposition of claims of allegedly stolen property provided in this chapter.

(b) Whenever property that is in the possession of a ~~pawnbroker, secondhand dealer, scrap metal dealer, or auction house~~business is subject to a hold and the property is required by a peace officer in a criminal investigation, the ~~pawnbroker, secondhand dealer, scrap metal dealer, or auction house~~business, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any ~~peace officer~~Peoria Police Officer or Peoria Police Department designee upon request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a ~~pawnbroker, secondhand dealer, scrap metal dealer or auction house~~business is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) ~~With respect to the property being held, if~~ the law enforcement agency no longer has probable cause to believe that the property on hold is stolen, the hold shall be released upon written notice, and or if in the possession of the law enforcement agency, returned to the ~~pawnbroker, secondhand dealer, scrap metal dealer or auction house~~business as soon as practicable, but in no event more than twenty (20) calendar days thereafter.

(2) In the event an alleged owner of property does not choose to assist in the prosecution of an identified thief, the hold on property will be released upon written notice, and any property recovered by the police department shall be returned to the business. If the alleged property owner wishes to recover the property from the business, the owner shall pay any "out of pocket" expenses paid in the acquisition of the allegedly stolen property in

~~return for the surrender of the property. The property owner shall be notified of same via contact either in person, by phone, or any physical or email address on file with the police department. If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency shall give written notification to the person who reported the stolen property the name and address of the pawnbroker, secondhand dealer, scrap metal dealer or auction house holding the property and issue a written order releasing the law enforcement hold on the property in favor of the person reporting the property stolen. The written order releasing the hold shall advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for surrender of the property. A copy of the written order with the address of the claimant deleted shall be mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house who is in possession of the property. The person who reported the stolen property shall present a police order releasing the hold to the pawnbroker, secondhand dealer, scrap metal dealer or auction house prior to the person receiving the item.~~

~~(3) — Notwithstanding the foregoing, if the alleged owner does not choose to assist in the prosecution of an identified alleged thief, the alleged owner shall pay the pawnbroker, secondhand dealer, scrap metal dealer or auction house the “out of pocket” expenses paid in the acquisition of the allegedly stolen property in return for surrender of the property. The order releasing the hold shall indicate whether the alleged owner is assisting in the prosecution of the identified alleged thief.~~

~~(3) If no action is taken to recover the property by the person who reported the property stolen within twenty (20) days after the release or return of the property, all holds shall be released and the business sixty (60) days after the date that the order releasing the hold was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the pawnbroker, secondhand dealer, scrap metal dealer or auction house that the property may be stolen property, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house in possession of the property may treat the property as regularly acquired in the due course of business.~~

~~(4) If a pledger seeks to redeem property that is subject to a hold, the pawnbroker, secondhand dealer, scrap metal dealer or auction house business shall advise the pledger of the law enforcement agency that placed the hold on the property and provide the pledger with a copy of the written notice placing the hold on the property. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.~~

~~(d) Whenever any property is taken from a pawnbroker, secondhand dealer, scrap metal dealer, or auction house business by a peace officer that is alleged to be stolen property, the peace officer shall give the pawnbroker, secondhand dealer, scrap metal dealer or auction house business a receipt for the property which shall contain an accurate description of the property, including~~

brand name and serial number, ~~if any~~ the reason for seizure, and the names of the pawnbroker, ~~secondhand dealer, scrap metal dealer or auction house,~~ business and the officer.

SECTION 14. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-133 pertaining to Stolen Property; initiation of petition and which shall read as follows:

Sec. 11-133. Stolen Property; initiation of petition.

A person or business owner from whom property has been seized may request a hearing formally through the Peoria Municipal Court.

Once a formal request has been made, ~~The the~~ City shall file a petition with the Hearing Officer that sets forth the following:

(a) The factual basis for the action under section ~~11-230-131~~ of this code.

(b) The name and address of each person claiming or anticipated to claim an interest in the Property.

(c) An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), if any, the location where seized and the person from whom seized.

SECTION 15. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-139 pertaining to Pawnbroker Transaction Fee; definitions and which shall read as follows:

Sec. 11-139. Pawnbroker and Secondhand Dealer Transaction Fee; definitions.

For Sections 11-139 through 11-143, unless the context otherwise requires, the following terms shall have the meanings given in Section 44-1621, Arizona Revised Statutes: loan, pawn ticket, pawn transaction, pawnbroker, pawnshop, pledged goods, pledgor, and redeem or redemption.

SECTION 16. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-140 pertaining to Pawnbroker Transaction Fee; imposition and which shall read as follows:

Sec. 11-140. Pawnbroker and Secondhand Dealer Transaction Fee; imposition.

(a) A pawnbroker or secondhand dealer shall pay to the city a transaction or ticket fee in the amount provided in Chapter 27 of ~~this the~~ City code for each report required to be prepared pursuant to A.R.S. §44-1625(A), and Sections 11-126 and 11-127 of this code.

(b) The transaction fee for each ticket shall be paid on a per transaction basis. The business may purchase tickets in advance, but shall not conduct transactions without a corresponding ticket fee having been paid. shall be due on the last business day of the month following the month in which the report required by Section 44-1625(A), Arizona Revised Statutes, was required to be prepared.

SECTION 17. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-141 pertaining to Pawnbroker Transaction Fee; reporting and payment of fee and which shall read as follows:

Sec. 11-141. Pawnbroker and Secondhand Dealer Transaction Fees; reporting and payment of fee.

The fee payable and paid as required by this code shall be reported on a form prescribed by the City and shall be considered as filed ~~only when the accuracy of the form has been attested to, by signature on the form, by the pawnbroker, or its authorized agent and~~ when it has been received by the City.

SECTION 18. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-142 pertaining to Pawnbroker Transaction Fees; violations and penalties and which shall read as follows:

Sec. 11-142. Pawnbroker and Secondhand Dealer Transaction Fees; violations and penalties.

(a) The remedy provided in this section is exclusive.

(b) ~~Any pawnbroker or secondhand dealer who fails to comply with any provisions of Sections 11-139 through 11-143~~ pay the applicable transaction fee shall pay delinquent fees and is subject to a civil sanction of not more than two thousand, five hundred dollars (\$2,500.00) per violation.

SECTION 19. Chapter 11 of the Peoria City Code (1992) is amended by amending Section 11-143 pertaining to Pawnbroker Transaction Fees; jurisdiction of court and which shall read as follows:

Sec. 11-143. Pawnbroker and Secondhand Dealer Transaction Fees; jurisdiction of court;

(a) Jurisdiction of all proceedings to enforce the provisions of Sections 11-139 through 11-143 shall be in the Municipal Court of the City of Peoria.

(b) Civil actions to enforce the provisions of Sections 11-139 through 11-143 may be adjudicated by a Municipal Judge or a Civil Traffic Hearing Officer.

(c) Any civil action to enforce a civil sanction imposed pursuant to this code shall be commenced and summons issued in accordance with Chapter 5 of this code.

SECTION 20. Chapter 11 of the Peoria City Code (1992) is amended by enacting Section 11-147 pertaining to Secondhand Sales Transactions with minors and which shall read as follows:

Sec. 11-147. Secondhand Sales transactions with minors.

(a) No merchant, regardless of whether he is required to be licensed under the provisions of this article, shall buy, pledge, pawn or otherwise accept merchandise from any person under the age of eighteen (18) years, unless such minor first produces a notarized letter, signed by the minor's parent or guardian, granting permission to the minor to transfer an interest in the property.

(b) Civil It shall not be a defense to an alleged violation of subsection (a) that the merchant reasonably believed the minor to be eighteen (18) years or older unless the minor produced an Arizona driver's license, or other identification as specified in Section 11-127(C)(4) and that identification purported to identify the minor as someone eighteen (18) years of age or older.

SECTION 21. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 22. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 18th day of August, 2020.



Cathy Carlát, Mayor

8-19-2020

Date Signed

ATTEST:

Rhonda Geriminsky For
Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Vanessa P. Hickman
Vanessa P. Hickman, City Attorney



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