

Section 18-200A ARTICLE IX. PAWNBROKERS; BUYERS OF SCRAP METAL AND BATTERIES*

***Editor's note--**An ordinance adopted Sept. 23, 1991, § I, deleted provisions formerly set out as §§ 18-221 18-222 of the Code, which pertained to pawnbrokers and dealers in precious metals, gems, jewelry and coins and derived from the 1958 Code, § 16-23, and an ordinance adopted May 14, 1991, § 1(16-23). Section I(14-71--14-81) of the ordinance adopted Sept. 23, 1991, added new provisions to the Code which have been included herein as §§ 18-210--18-220 at the discretion of the editor.

Section 18-200D DIVISION 1. GENERALLY

Section 18-201 18-201--18-209. Reserved.

Section 18-209D DIVISION 2. PAWNBROKERS*

***State law references--**Pawnbrokers, O.C.G.A. § 44-12-130 et seq.; cities authorized to regulate pawnbrokers, O.C.G.A. § 44-12-136.

Section 18-210 Definitions.

The following words, terms, and phrases, when used in this division, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

General pawnbroker means and includes any person engaged in whole or in part in the business of lending money on the security of pledged goods; or in the business of purchasing tangible personal property, not to include motor vehicles, on the condition that the property may be redeemed or repurchased by the seller for a fixed price within a fixed period of time; or in the business of purchasing tangible personal property, not to include motor vehicles, from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described herein.

Vehicle pawnbroker means and includes any person engaged in whole or in part in the business of purchasing a motor vehicle on the condition that such motor vehicle may be redeemed or repurchased by the seller for a fixed price within a fixed period of time and may be leased back to the seller during such period of time.

(Ord. of 9-23-91, § I(14-71))

Section 18-211 Purpose.

This division is enacted to promote the general welfare of the city; to establish reasonable and ascertainable standards for the regulation and control of the licensing of establishments classified as general pawnbrokers and vehicle pawnbrokers as defined by this division; and to prevent undesirable persons from engaging in or having an interest in establishments classified as general pawnbrokers and vehicle pawnbrokers as defined by this division.

(Ord. of 9-23-91, § I(14-72))

Section 18-212 Compliance with chapter required.

It shall be unlawful for any person to operate as a pawnbroker as defined in section 18-210, which shall include general pawnbrokers and vehicle pawnbrokers, without first having complied with the

provisions of this chapter, but the properly licensed operation of same is hereby declared lawful.
(Ord. of 9-23-91, § I(14-73))

Section 18-213 License required; consideration and approval; subsequent issuance; conditional approval.

Each application provided for in this division shall be considered and passed upon by the city council or its designee in regular or special session, legally assembled. No license shall be granted to any person unless it is made to appear to the city council that the applicant is a suitable and fit person to carry on such business, and that the business will be conducted in an orderly manner and in compliance with all laws, municipal, state and federal. Upon approval of the application and payment of the required license fee, the applicant shall be entitled to the issuance of the license; provided, however, the council reserves the right to approve such issuance of the license conditioned upon the full and final compliance by the licensee with all applicable city ordinances.

(Ord. of 9-23-91, § I(14-74))

Section 18-214 Disqualification provisions.

When contrary to the public interest and welfare no original application shall be considered and no license to operate as a pawnbroker shall be issued by the city council to or for:

- (1) Any person as determined by the city council by reason of such person's business experience, financial standing, moral character, mental capacity, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking license in conformity with federal, state or local laws, rules and regulations.
- (2) Any person who shall have been convicted or who shall have entered a plea of nolo contendere or forfeited a bond, to any felony within a period of ten (10) years immediately prior to the filing of any such application or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation, particularly, but not limited to, those involving force or violence, prostitution, alcoholic beverages, gambling or tax law violation, if such conviction, plea or forfeiture tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding this provision, the city council, in its sole discretion, may direct the issuance of a license to a person who has in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere or forfeited a bond on any crime, and the city council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant has determined that such action is in keeping with the public good and ends of justice or the public interest and welfare.

(Ord. of 9-23-91, § I(14-75))

Section 18-215 Application forms; license not to be issued under certain conditions.

(a) All applications for licenses shall be made on forms furnished the applicant by the city clerk and shall indicate, along with all reasonable information necessary to complete the form, which of the following is to be considered for licensing of the applicant to conduct:

- (1) Pawnbroker--General.

(2) Pawnbroker--Vehicle pawn.

(b) Upon approval by the city council of an original or renewal application for license of one (1) or more of the above types of businesses, such business may be conducted by the applicant after a license is issued for all or the remaining part of the calendar year in which the license is issued unless the license is revoked or suspended for due cause as provided in section 18-217. An application for renewal of license to operate as a pawnbroker shall be filed with the city clerk no later than 5:00 p.m. on January fifteenth of each year. The annual fee for the license sought to be renewed shall be paid to the city at the time the application for renewal is filed. Failure of any holder of a license to operate as a pawnbroker to file the application for renewal by the date and time specified shall render the license void, effective the last legal hour on January fifteenth of that year for such business. In order to operate as a pawnbroker a license holder who has allowed the license to lapse shall file a new application for license as if a license had never been held and pursuant to the previous sections of this article. Where an application for renewal is timely filed as provided in this article, the license holder shall be permitted to continue operating as a pawnbroker under the previous year's license until the city council has acted upon the license holder's application for renewal.

(c) The city clerk of the city shall cause an inquiry to be made into the records of the City to determine if any applicant or other parties interested in an application have any outstanding taxes or special assessments that are delinquent or any other monies owing to the city. No license shall be issued nor shall a license be renewed until all such debts are paid in full.

(d) All applications required by this chapter shall be investigated by the city police department and the report of the investigation presented to the city council for consideration with the application.
(Ord. of 9-23-91, § I(14-76); Ord. of 3-12-07)

Section 18-216 Fees.

(a) The following annual fees shall be paid the city before any license to operate as a pawnbroker is issued:

(1) General pawnbrokers	\$ 150.00
(2) Vehicle pawnbrokers	2,500.00

(b) Upon filing an original application or reapplication (except renewals) with the city clerk of the city, the applicant shall deposit in cash or by a check a processing fee of one hundred dollars (\$100.00) total, for all licenses applied for, to cover the expense of investigation and processing the application, which fee shall not be refundable and shall not be applied against the cost of any license hereunder.

(c) On paragraph (a)(1) and (2) above, the fees shall be prorated on a monthly basis (all of any part of a month) and should the business be sold, the license fee, if previously paid, may be transferred in favor of a new applicant. If the business should close voluntarily or if the licensee ceases operating as a pawnbroker other than because the license is suspended or revoked, then an amount may be refunded, upon application by the licensee, prorated on the basis of the amount of the fee previously paid per month multiplied by number of full months remaining in the calendar year, which sum shall be the refunded amount.

(Ord. of 9-23-91, § I(14-77))

Section 18-217 Suspension; revocation of license; denial of renewal or transfer.

(a) *Notice, hearing.* Any license which has been issued or which may hereafter be issued by the city to any licensee may be denied, suspended or revoked or transfer refused, by the city council for due cause. Before the city council shall deny any application for a license or shall deny the transfer of any license, or shall revoke or suspend any existing license, the applicant shall be given notice in writing from the city clerk to show cause before the city council at a time and place specified therein not less than three (3) days nor more than ten (10) days from the date of service of the notice, why the application for, or

renewal of, a license or for transfer of license should not be denied, or why the license should not be revoked or suspended, as the case may be, stating the grounds therefor. At the appointed time and place the applicant or licensee shall have an opportunity to show cause, if any exists, why the application should not be denied or the license revoked or suspended, after which the city council shall take such action as it, in its judgment and discretion, shall deem warranted under the facts. The hearing provided for in this section need not be at a regular meeting of the city council, but may be at such time and place as shall be fixed in the notice. All decisions denying, suspending or revoking any license or application shall be in writing, with the reasons therefor stated, and mailed or delivered to the applicant. In addition, at any hearing as provided in this section, the party afforded the hearing shall have the opportunity to present evidence, have an attorney, and have testimony recorded at his expense.

(b) *Due cause generally.*

- (1) Due cause for the suspension, revocation or denial of the renewal or transfer of any license shall consist of an act or omission found to be by the city council, after a hearing as above provided, a violation of any law or ordinance regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any city ordinances, other than traffic violations or ordinances, or failure of the licensee or his employee to promptly report to the police department any violation of the law or ordinance.
- (2) Due cause shall also consist of the business or the operation or location thereof, or the owner or any person connected therewith ceasing to meet any of the qualifications for the issuance of license as stated in this chapter.
- (3) Due cause may also be found upon the revelation of any false statement or material misrepresentation in any application hereunder. Any material omission from untrue or misleading information which is contained in an original, renewal or transfer application for license hereunder shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license.

(c) *Emergency due cause; failure or refusal to cooperate with the city police acting in the line of duty.* On evidence of failure or refusal of the licensee or any employee thereof to cooperate with any police officer on any reasonable request or action within such officer's duties, responsibilities or powers, including all police powers, rights and duties to investigate to determine any pertinent fact relating to the establishment, the licensee, any employees or corporate officers or partners, the chief of police shall immediately order all pawnbroking business suspended until after a hearing as set out in the due cause hearing provided for in paragraph (a), such hearing to be concerning such failure or refusal to cooperate.

(d) *Refund of license fee.* When a license is so revoked or suspended, the city shall not be required to refund any portion of the license fee.

(e) *Emergency situation.* The mayor is the delegated authority to suspend any license hereunder in an emergency situation, and such suspension may be made effective immediately and remain in force until the next regular or called meeting of the city council.

(f) *Penalties for failure to comply.* Any violators of the provisions set out in this division shall be punished in accordance with the provisions of section 1-6 of this Code.

(Ord. of 9-25-91, § I(14-78))

Section 18-218 Transfer of license; changes of ownership, locations.

(a) Licenses hereunder shall not be transferable except as otherwise provided in this section.

(b) In the case of the death of any person owning a license or any interest therein, with the approval of the city council and subject to the terms of this section, the license may be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such administrator, executor or personal representative or heirs meet all of the other qualifications contained in this section. The license of such deceased person shall be held by the

administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and disposition of the license or his interest therein, but in no event to exceed six (6) months.

(c) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license from withdrawing from the partnership and assigning his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this section are fully complied with, and then only upon the approval of the city council.

(d) Any change in the ownership interests contained on the application shall cause the immediate cessation of pawnbroking business and no such business shall be conducted until any such change in the ownership interests are approved by the city council, provided, however, that this provision shall not apply in a situation where one (1) or more individuals who have ownership interests in the license cease to have such ownership interest, but the remaining ownership interests remain unchanged except as to the division of the remaining interests.

(e) An application for a new license for an existing licensed location shall meet the requirements of a new license to be issued hereunder, except payment of license fee shall be waived only in the case of a purchaser of a business where an existing license remains valid. The investigation fee will accompany the application and the unearned portion of the license fee may be transferred to the new license in the event the transfer or issuance of a new license on an existing licensed location is approved by the city council.

(Ord. of 9-23-91, § I(14-79))

Section 18-219 Operating regulations.

(a) General pawnbrokers and vehicle pawnbrokers shall keep the following information on forms approved by the police department.

- (1) Name and address of business, date;
- (2) Name, address and driver's license number of the customer pledging or selling;
- (3) A description of the general appearance of the customer;
- (4) Customer's age and social security number as shown on I.D. card, driver's license or other card;
- (5) Whether or not the transaction was a loan on a pledged article or was an outright purchase, and the amount loaned or paid for such article;
- (6) The number of the receipt or pawn ticket;
- (7) A complete description of the article, including where possible, any brand name, serial number, color, condition and any other identifying feature.

(b) The records required by this section shall be mailed to the police department within five (5) days of the pawn.

(c) Any article taken in pledge or purchased shall be kept in the establishment not less than fourteen (14) days and shall be pointed out to any police officer upon request, except in the case of vehicle pawn wherein a copy of the required lease agreement shall be produced to the police officer.

(d) No article may be taken in pledge or purchased from a customer who does not furnish a state I.D. card or driver's license with picture giving his name, age, social security number, if any, and the like information, nor may any transaction be made with any person less than eighteen (18) years of age, unless accompanied by a parent or legal guardian.

(e) Any items found by the police department to be a stolen good shall be surrendered to the police officers, and no payment for same shall be made by the city.

(f) All general pawnbrokers and all vehicle pawnbrokers are hereby required to file with the city clerk a bond binding the person to the city in the amount of twenty-five thousand dollars (\$25,000.00), executed by the person as principal and by a surety approved by the city attorney, conditioned that the business will comply fully with the code and the statutes of the state governing the conduct of such business and conditioned upon compliance with the provisions of this section, and upon the prompt report

of all suspicious persons dealing with the obligor, and of stolen property or property suspected of being stolen, and for the returning to the chief of police or to the true and lawful owner of any such property or making payment therefor. The bond shall be taken in the name of the licensee and the city, and any person injured by the breach of such bond may bring an action on such bond in his own name to recover damages therefor.

(Ord. of 9-23-91, § I(14-80))

Section 18-220 Special provisions for disclosure.

All general and vehicle pawnbrokers shall be required to provide customers with a complete disclosure of the total amount of interest to be charged for the period of pawn along with the annual percentage rate (APR) thereof; of the amount of the principal on which such interest is computed; of all charges of any kind, including service charges associated with the transaction, including the total amount of interest and charges. Such disclosure shall be printed in no smaller than ten (10) point type and shall be signed by the customer at the time of the transaction. A copy of same shall be made available for review by the city clerk upon request.

(Ord. of 9-23-91, § I(14-81))

Section 18-221 18-221, 18-222. Reserved.

Section 18-222D DIVISION 3. BUYERS OF SCRAP METAL AND BATTERIES

Section 18-223 Records required.

(a) Buyers of scrap copper, lead, and other scrap metals and batteries for the purpose of salvage of such material are hereby required to obtain and keep the following information on forms furnished by the police department:

- (1) Name and address of business, date;
- (2) Name, address, and driver's license number of the person selling the business any scrap metals or batteries;
- (3) Such person's age and social security number as shown on a state I.D. card, driver's license with picture, or other card;
- (4) A complete description of the scrap metals or batteries, including weight, condition, and any identifying features.

(b) The records required in this section shall be shown to police officers on request, who shall also be allowed sufficient time to copy such records.

(c) No scrap metals or batteries may be purchased from a person who does not furnish an I.D. card giving his name, age, social security number, if any, and the like information.

(d) Any items found by the police department to be stolen goods shall be surrendered to the police officers, and no payment for same shall be made by the city.

(e) Any violators of the provisions set out in this section shall be punished in accordance with the provisions of section 1-6.

(Code 1958, § 16-23.1)