

ORDINANCE NO. 2006-09-72

STATE OF GEORGIA

COUNTY OF FULTON.

**AN ORDINANCE AMENDING CHAPTER 11, BUSINESS OCCUPATION TAX, LICENSES, AND REGULATION, BY STRIKING THE EXISTING ARTICLE 3, PAWN SHOPS, PAWN BROKERS AND REPLACING IT WITH A NEW ARTICLE 3, PAWNBROKERS AND PAWN SHOPS; SECONDHAND DEALERS**

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on September 19, 2006 at 7:00 P.M. as follows:

**SECTION 1.** That the Ordinance relating to Amending Chapter 11, Business Occupation Tax, Licenses, and Regulation, is hereby adopted and approved; and is attached hereto as if fully set forth herein;

**SECTION 2.** That this Ordinance replaces the previously existing Article 3 which is stricken in its entirety;

**SECTION 3.** That all ordinances, parts of ordinances, or regulations in conflict herewith are repealed;

**SECTION 4.** That the First Reading of this Ordinance was on September 5, 2006; and

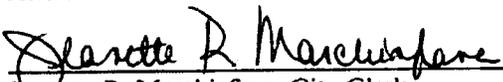
**SECTION 5.** That this Ordinance shall be effective upon adoption.

ORDAINED this the 19th day of September 2006.

Approved:

  
\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

  
\_\_\_\_\_  
Jeanette R. Marchiafava, City Clerk

(Seal)



## **Chapter 11**

### **Article 3: Pawnbrokers and Pawnshops; Secondhand Dealers**

#### **Section 1: Applicability of Article Provisions**

- (a) This Article is intended to regulate the conduct and activities of pawnbrokers and pawnshops, as defined hereafter, in order to reduce and curtail the criminal activities frequently engendered by such businesses; to aid the City Police Department in detection and prevention of criminal conduct; and to ensure fair dealing between a pawnbroker and customers.
- (b) This Article is further intended to regulate specified conduct and activities of secondhand dealers, as defined hereafter in Section 2. The provisions of Sections 5 and 11 of this Article are applicable to secondhand dealers.

#### **Section 2: Definitions**

The following words, terms and phrases, when used in this Article, shall have the following meanings:

- (a) "Accepted identification" means an official document, most commonly in the form of a plastic coated/sealed card, government issued for purposes of identification, or valid driver's license. Such a document must be issued by one of the fifty (50) states or a branch of the U.S. Military, i.e. Army, Navy, Air Force, Marines, Coast Guard, or be a current probation or parole card of the State of Georgia and its counties. At a minimum, the identification must bear a true photograph of the person presenting it, date of birth, description of the person, and an address for the person. Should the address be other than a residence address, i.e. a post office box, a residence address must be provided and supported by documentation, including, but not being limited to a lease, a utility bill, a property tax bill, or a mobile telephone bill.
- (b) "Bailment" means the placing of possession of personal property or title belonging to one person in another person who subsequently holds possession.
- (c) "Deceptive business practice" means:
  - (1) possession or any use of a false weight or measurement, or any other device for falsely determining or recording any quality or quantity in connection with any scale or service;
  - (2) any sale or offer to sell or delivery of less than the represented quality or quantity;
  - (3) any attempt by a buyer or broker to take more than the represented quantity of any commodity, when it is this buyer or broker who furnishes the weight or measure;
  - (4) any service which is of an unreasonably lesser quality than the service offered or represented;
  - (5) any other practice designated as unlawful by O.C.G.A. 10-1-390, et seq.; and
  - (6) any other fraudulent business transaction which is made punishable by the laws of the State of Georgia.

- (d) "Employee" means any individual who works in a pawnshop and specifically includes both independent contractors and individuals who may also have any kind of ownership interest in the pawnshop.
- (e) "Good moral character" means a person who has not been convicted of or pled guilty or nolo contendere to any felony or any crime involving theft, drugs, fraud or a crime against property in the past ten (10) years. The ten (10) year period shall commence from the date of any such conviction.
- (f) "Minor" means any person who has not attained the age of eighteen (18) years.
- (g) "Occupation Tax Certificate" means permission to operate a business evidenced by an occupation tax certificate issued pursuant to this Code's Chapter 11 addressing Business Occupation Tax, Licenses and Regulation.
- (h) "Pawn or pledge" means a bailment, of personal property or title as security for any debt or engagement, redeemable upon certain terms and with the express or implied power of sale on default.
- (i) "Pawnbroker" means 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 or title on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or within this form of business purchasing tangible personal property or title from persons or sources other than manufacturers or regulated dealers as a part of or in conjunction with the business activities described herein.
- (j) "Pawnshop" means any business involving in any part the pledge, pawn, or exchange of any goods, wares, merchandise, or any kind of personal property or title as security for the repayment of money lent thereon.
- (k) "Pawnshop Permit" means permission to operate a pawnshop regulated by the City's Police Department.
- (l) "Permit" means permission to be employed or work in a pawnshop regulated by the City's Police Department.
- (m) "Person" means any individual, company, corporation, association, partnership, or other legal entity.
- (n) "Secondhand dealer" means any person or business which is not a pawnbroker, but does, exclusively or as incidental to or in connection with other business, purchases, sells or acquires in trade used or secondhand jewelry, flat silver, gold, and silver objects of every kind and description, including watches and clocks, any of which is made in whole or in part of gold, silver, platinum, or other precious metals; diamonds, emeralds, rubies, or other precious stones; pistols or guns; musical instruments, bicycles or accessories. Any person or business which shall purchase any item of the kinds herein described from any person other than a bona fide dealer in those items shall, for the purpose of making the reports required herein, also be a secondhand dealer and subject to all the provisions of this Article relating to those records and reports.

### **Section 3: Pawnshop Employees**

- (a) All persons employed or working in a pawnshop as defined above shall first obtain a permit from the City allowing the person to be employed or work in a pawnshop. Permit license fees for employees shall be set by Resolution of the City Council, and shall remain in effect from year to year, until modified or amended by subsequent Resolution adopted by the City Council.
- (b) In order for a permit to be issued, the person must meet the following qualifications:
  - (1) must be 18 years or older;
  - (2) must be of good moral character as defined above, to wit: must not have within the past ten (10) years been convicted of, pled guilty or nolo contendere to any felony or any crime involving, theft, drugs, fraud or a crime against property;
  - (3) must disclose ownership or interest in any other pawnshop, whether located in or out of the State of Georgia. An interest shall be deemed to exist if the person or a member of his or her family is the outright owner of the pawnshop; a co-owner of the pawnshop; a partner in a partnership which owns all or any part of the pawnshop; or a stockholder in any corporation organized for pecuniary gain which owns all or any part of the pawnshop;
  - (4) shall be fingerprinted and photographed by the Police Department, and the City shall have ten (10) days to investigate the information provided.
- (c) Until a permit is issued, the person shall not work in the pawnshop.
- (d) It shall be the duty of the pawnbroker to assure that the provisions of this section are met.
- (e) Should any information provided pursuant to this section change after original approval has been granted, the employee shall notify the City's Police Department of such change and in any event, provide the correct information prior to any renewal.
- (f) Should a permit be denied, the prospective employee may, within ten days of the denial, apply to the police department for a hearing. Any decision from such a hearing may be appealed to the City Manager, who shall issue such order as appropriate after a hearing.
- (g) Conviction of violating any of the provisions of this Article or any other ordinance of the City of Sandy Springs, rules or regulations of the City, or conviction of any felony or any crime involving theft, drugs, fraud or a crime against property within the past ten (10) years shall automatically revoke any permit previously issued.
- (h) So long as the person continues to meet the requirements of this Article, the permit shall be renewed on a calendar year basis. The renewal fee for the permit shall be paid at the time the renewal application is filed by January 1, of the year for which the permit is requested. The renewal permit fee shall be set by Resolution of the City Council, and shall remain in effect from year to year, until modified or amended by subsequent Resolution adopted by the City Council.

#### **Section 4: Occupation Tax Certificate and Pawnshop Permit Required**

- (a) It shall be unlawful for any person to engage, conduct or carry on within the City any pawnshop without a currently valid Occupation Tax Certificate as required by Chapter 11 of this Code and a currently valid Pawnshop Permit as required by this Article.
- (b) In addition to the Occupation Tax Certificate, an application for a Pawnshop Permit authorizing the operation of a pawnshop regulated by the City's Police Department shall be submitted along with payment of a nonrefundable application fee as set by Resolution of the City Council and which shall remain in effect from year to year, until modified or amended by subsequent Resolution adopted by the City Council. So long as the requirements of this Article are met, the permit shall be renewed on a calendar year basis. The renewal fee shall be paid at the time the renewal application is filed by January 1, of the year for which the permit is requested. The renewal permit fee shall be set by Resolution of the City Council, and shall remain in effect from year to year until modified or amended by subsequent Resolution adopted by the City Council.
- (c) A pawnshop or pawnbroker Occupation Tax Certificate and a Pawnshop Permit shall be personal to and nontransferable by an applicant, a holder thereof, or by operation of law; provided, however, that if the applicant or holder is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner, or partners without effecting a surrender or termination of the Occupation Tax Certificate and Pawnshop Permit, and in such case, upon notification to the City the Occupation Tax Certificate and Pawnshop Permit shall be placed in the name of the surviving partner or partners.
- (d) The Occupation Tax Certificate number and Pawnshop Permit number shall be printed on the front window of the regulated premises in uniform letters not less than three inches in height and shall read: "City of Sandy Springs Pawnshop Certificate Number \_\_\_\_\_ and City of Sandy Springs Pawnshop Permit Number \_\_\_\_\_".

#### **Section 5: Required Recordkeeping by Pawnbrokers, Pawnshops, and Secondhand Dealers**

- (a) A book shall be kept and shall have entered an accurate description of all property which is acquired by purchase or trade, and the name, address, estimated age, weight, and height of the person from whom purchased or acquired and the date and hour of purchase. These entries shall be made as soon as possible after the transaction, but in no case, more than one (1) hour thereafter.
- (b) Each entry in this book shall be numbered serially, and the property described in the entry shall have attached to it a tag bearing the same serial number.
- (c) This book shall at all times be subject to inspection and examination by the City of Sandy Springs Police Department.
- (d) A daily report shall be made electronically to the Chief of Police in such format as may be prescribed by him, of all property purchased or acquired during the twenty-four (24) hours ending at 12:00 midnight on the date of the report.

- (e) All property purchased or acquired shall at all times be subject to examination and inspection by the City of Sandy Springs Police Department. If, upon any inspection, a police officer shall have reasonable cause to believe that any of the property is stolen, he shall segregate it. It shall thereafter be unlawful for the person in possession of the property to dispose of or damage the property in any manner, until fifteen (15) days have elapsed from the date of the inspection.
- (f) All property purchased or acquired shall be held for not less than fifteen (15) days.
- (g) It shall be unlawful to acquire by purchase, pawn, or trade any watch, clock, pistol, gun, automobile tire or battery, or any other item commonly branded with a serial number, upon which the number has been mutilated or altered.
- (h) It shall be unlawful to buy or receive any property from any person under the age of eighteen (18) years, provided that any pawnbroker or secondhand dealer who obtains and retains a copy of accepted identification, shall not be subject to this provision.

#### **Section 6: Additional Requirements Applicable to Pawnshops and Pawnbrokers**

Notwithstanding other provisions of this Article or other provisions of ordinances of the City, the following requirements shall be applicable:

- (a) Pawnbrokers shall comply with all provisions of O.C.G.A. 44-12-130 et seq. addressing and regulating pawnbrokers and their business operations in the State of Georgia.
- (b) A fingerprint of each person pawning, pledging or selling any article or articles shall be obtained. It should be of the right hand index finger, unless this finger is missing, in which event, the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. In the event the right hand is missing, the fingerprint should be of the left index finger, unless such finger is missing, then the print of the next finger in existence on the left hand shall be fingerprinted, and notation made of the exact finger. These prints shall be made on forms prescribed by the City of Sandy Springs Police Department and each form shall be completed in full as to each and every transaction regardless of whether the person may have previously pawned an article and thus been previously fingerprinted.
- (c) A photograph of each person pawning, pledging or selling any article or articles shall be taken and retained by the pawnbroker.
- (d) Further, acceptable identification shall be required from any person pawning, pledging, or selling an article or articles, and the number of this identification document, along with any other information required, shall be copied and retained by the pawnbroker.
- (e) The pawnshop broker and any employee shall have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented and shall not transact any business with a person who appears to be presenting false or altered identification. If the identification presented is not a State of Georgia issued identification, the pawnshop broker and any employee will have the affirmative duty of providing the listed

address from the identification as well as a current Georgia address on the transaction paperwork. The pawnbroker is required to check the customer's identification for each transaction.

#### **Section 7: Avoidance by City Employees of Conflict of Interest**

- (a) No employee of the City or its contracted agents shall have any interest in a pawnshop within the City.
- (b) No employee of the City or its contracted agents may own, work in or be employed (paid or unpaid) by a pawnshop.
- (c) The above provisions shall further apply to any employee of the City who is related to any person by consanguinity.

#### **Section 8: Restrictions on Sale or Pledge of Building Glass, Plumbing Materials, and Building Materials**

It is unlawful for pawnbrokers to purchase, advance money on, or take in pawn glass taken from buildings, such as mantel mirrors, art glass and the like, or copper wire, copper linings of bathtubs, lead pipes or any kind of plumbing materials sold as junk, or other types of unused building materials where the same is offered for sale or pawned by other than persons of known good character.

#### **Section 9: Lost or Damaged Goods**

Any person presenting a pawn ticket to the pawnbroker along with acceptable identification shall be presumed to be the pledgor or seller and shall be entitled to redeem the pledged goods described in the ticket. In the event the described goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with like kinds of merchandise or settle upon a cash price. Proof of replacement shall be a defense to prosecution. For the purposes of this section, "lost" includes destroyed or having disappeared due to any cause, known or unknown, that results in the pledged goods being unavailable for return to the pledgor.

#### **Section 10: Failure of Pawnshop to Comply**

Any pawnshop operated, conducted or maintained contrary to any of the provisions of this Article and the provisions of the laws of the State of Georgia addressing and regulating pawnbrokers and their business operations shall be declared to be unlawful and a public nuisance. The City may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such pawnshop and restrain and enjoin any person from operating, conducting or maintaining a pawnshop contrary to the provisions of this chapter. In addition, violation of the provisions of this chapter shall be per se grounds for suspension or revocation of an occupation tax certificate.

#### **Section 11: Penalties for Violation**

Violation of any of the sections of this Article or any part thereof shall be punishable as a misdemeanor, and the court shall be authorized upon an entry of a plea of guilty, or a finding of guilty, or entry of a plea of nolo contendere to impose a sentence of incarceration in the City jail of up to six (6) months and

impose a fine of up to \$1,000.00, or a combination of both incarceration and fine, for each violation of the provisions of this Article.