

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER URBAN
COUNCIL BILL NO. 14-2016
ORDINANCE NO. 1604
Series of 2016

TITLE: AN ORDINANCE AMENDING THE TITLE AND CERTAIN SECTIONS OF ARTICLE VII, CHAPTER 11 OF THE WHEAT RIDGE CODE OF LAWS, REGARDING PAWNBROKER REQUIREMENTS AND ESTABLISHING SECONDHAND DEALER REQUIREMENTS

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), acting through its City Council (the "Council"), possesses the authority to enact ordinances for the protection of the public health, safety and welfare and for the regulation of businesses within the City; and

WHEREAS, pursuant to the City's home rule authority and C.R.S. §§ 31-15-401 and 31-15-501, the Council previously adopted regulations governing pawnbrokers, codified as Article VII of Chapter 11 of the Wheat Ridge Code of Laws (the "Code"); and

WHEREAS, said regulations are designed to deter and detect the use of pawnbroker businesses to traffic stolen property and instrumentalities of crime; and

WHEREAS, the Council finds and determines that business enterprises known as secondhand dealers face a risk similar to that faced by pawnbrokers of having their legitimate business enterprise used as a tool to traffic stolen property or otherwise conceal criminal activity; and

WHEREAS, in the interest of deterring and detecting criminal activity conducted in association with secondhand dealers, the Council finds that it is necessary and appropriate to impose certain transaction and reporting requirements upon secondhand dealers that are similar to those imposed upon pawnbrokers; and

WHEREAS, as technology has advanced and made information-sharing between and among law enforcement agencies more available and immediate, the Council finds that it would serve the public safety and welfare to update the existing reporting requirements in Article VII of Chapter 11 to require digital photographs and the uploading of information to an internet database, all as further set forth herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. The title of Article VII of Chapter 11 of the Wheat Ridge Code of Laws is hereby amended to read in its entirety as follows:

ARTICLE VII. – PAWNBROKERS AND SECONDHAND DEALERS

Section 2. Section 11-170 of the Wheat Ridge Code of Laws, concerning definitions applicable to Article VII of Chapter 11 thereof, is hereby amended by the addition of the following new definitions, to be inserted within said Section 11-170 in alphabetical order:

ANTIQUE DEALERS: A PERSON ENGAGED EXCLUSIVELY IN THE BUSINESS OR OCCUPATION OF BUYING, SELLING, BARTERING, OR EXCHANGING ANY PAINTING, FURNITURE, CHINA, OR OTHER ARTICLE PAINTED OR MADE MORE THAN FIFTY (50) YEARS PRIOR TO THE DATE OF THE TRANSACTION, WHICH IS VALUABLE PRIMARILY BY REASONS OF AGE, SCARCITY OR THE SKILL AND CRAFTSMANSHIP OF THE ARTICLE AND ARTISAN. ANTIQUES MAY INCLUDE ARTICLES MADE OF GOLD, SILVER OR OTHER PRECIOUS METALS, SO LONG AS SUCH ARTICLES MEET THE OTHER REQUIREMENTS SET FORTH IN THIS DEFINITION.

FLEA MARKET: AN AREA WHICH IS CHARACTERIZED BY THE TEMPORARY OR PERMANENT OCCUPANCY BY SEVERAL INDIVIDUALS, GROUPS AND/OR FAMILIES FOR THE SALE OR BARTER OF SECONDHAND OR HANDCRAFTED ARTICLES.

ON-LINE REPORTING SERVICE: THE ON-LINE REPORTING SERVICE AND DATABASE DESIGNATED FROM TIME TO TIME BY THE POLICE DEPARTMENT, THE USE OF WHICH MUST BE AVAILABLE TO PAWNBROKERS AND SECONDHAND DEALERS AT NO COST.

SECONDHAND GOODS: INCLUDES ANY TANGIBLE PERSONAL PROPERTY NOT SOLD AS NEW AND NORMALLY HAVING BEEN USED BY ONE (1) OR MORE INTERMEDIARIES. SECONDHAND GOODS DOES NOT INCLUDE ITEMS THAT WERE SOLD AS NEW AND RETURNED BY THE CUSTOMER FOR EXCHANGE OR REFUND. SECONDHAND GOODS INCLUDES BUT IS NOT LIMITED TO TOOLS AND ELECTRONIC DEVICES. SECONDHAND GOODS DOES NOT INCLUDE RECONDITIONED PROPERTY PURCHASED FROM A WHOLESALER, USED MOTOR VEHICLES OR JUNK, AS DEFINED BY SECTION 26-123 OF THIS CODE.

SECONDHAND DEALER: A PERSON ENGAGED IN THE BUSINESS OF BUYING AND SELLING OR RESELLING SECONDHAND GOODS OR PRECIOUS OR SEMIPRECIOUS METALS OR STONES. A SECONDHAND DEALER DOES NOT INCLUDE: ANTIQUE DEALERS; COIN COLLECTORS OR COIN SHOPS ENGAGED EXCLUSIVELY IN THE PURCHASE AND SALE OF COINS AND BULLION; BUSINESSES ENGAGED PRIMARILY IN THE PURCHASE AND SALE OF FIREARMS

AND FIREARMS-RELATED MERCHANDISE; FLEA MARKET VENDORS AND OPERATORS; USED FURNITURE DEALERS; PERSONS CONDUCTING LEGALLY-LICENSED GARAGE SALES; SECONDHAND AND THRIFT STORES OPERATED BY CHARITABLE OR NONPROFIT ORGANIZATIONS; COMMODITY METAL DEALERS SUBJECT TO C.R.S. § 18-13-111, AS EXISTING OR HEREAFTER AMENDED AND PROVIDERS OF COMMERCIAL MOBILE SERVICES AS DEFINED IN 47 U.S.C.332(D), AND SUCH PROVIDERS' AUTHORIZED AGENTS AND RETAILERS THAT HAVE CONTRACTUAL RELATIONSHIPS WITH THE PROVIDER TO SELL THE PROVIDERS' AUTHORIZED PRODUCTS AND SERVICES; AND ELECTRONIC DEVICE MANUFACTURES.

PRECIOUS OR SEMIPRECIOUS METALS OR STONES: SUCH METALS AS, BUT NOT LIMITED TO, GOLD, SILVER, PLATINUM AND PEWTER, AND SUCH STONES AS, BUT NOT LIMITED TO, ALEXANDRITE, DIAMONDS, EMERALDS, GARNETS, OPALS, RUBIES, SAPPHIRES, AND TOPAZ. FOR PURPOSES OF THIS ARTICLE, IVORY, CORAL, PEARLS, JADE AND OTHER SUCH MINERALS, STONES OR GEMS AS ARE CUSTOMARILY REGARDED AS PRECIOUS OR SEMIPRECIOUS ARE DEEMED TO BE PRECIOUS OR SEMIPRECIOUS STONES.

Section 3. Section 11-170 of the Wheat Ridge Code of Laws, concerning definitions applicable to Article VII of Chapter 11 thereof, is hereby amended by amending the definition of "purchase transaction" set forth thereunder as follows:

Purchase transaction: The purchase by a pawnbroker OR SECONDHAND DEALER in the course of business of tangible personal property for resale, other than newly manufactured tangible personal property which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

Section 4. Section 11-171 of the Wheat Ridge Code of Laws, concerning compliance with Article VII of Chapter 11, is hereby amended as follows:

Sec. 11-171. - Compliance; license required.

It is unlawful for any person to engage in the business of pawnbroking except as provided in and authorized by this article and without first having obtained an annually renewable and nontransferable pawnbroker's license issued by the city. IT IS UNLAWFUL FOR A SECONDHAND DEALER TO FAIL TO COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THIS ARTICLE. A SECONDHAND DEALER IS NOT REQUIRED TO OBTAIN A LICENSE PURSUANT TO THIS ARTICLE.

Section 5. Section 11-183 of the Wheat Ridge Code of Laws, concerning required acts of pawnbrokers, is hereby amended as follows:

Sec. 11-183. Required acts of pawnbrokers AND SECONDHAND DEALERS.

(a) *Register, required information; declaration of ownership or power to sell.* Every pawnbroker AND SECONDHAND DEALER shall keep a numerical register in which shall be recorded the following information: the name, address and date of birth of the customer; the customer's driver's license number or other identification which is allowed for sale of valuable articles pursuant to C.R.S., § 18-6-103, or for the sale of secondhand property pursuant to C.R.S., § 18-13-114; the date, time and place of the contract for purchase or purchase transaction; and an accurate and detailed account and description of each item of tangible personal property, including, but not limited to, any and all trademarks, identification numbers, serial numbers, model numbers, brand names, owner's identification numbers and other identifying marks on such property. The pawnbroker OR SECONDHAND DEALER shall also obtain a written declaration of the customer's ownership, which shall state whether the tangible personal property is totally owned by the customer or shall have attached to such declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.

(b) *Recording of purchase.* If the contract for purchase or the purchase transaction involves more than one item, each item shall be recorded on the ~~pawnbroker's~~ register and on the customer's declaration of ownership.

(c) *Signature of customer.* The customer shall sign his or her name in such register and on the declaration of ownership and receive a copy of the contract of purchase or a receipt of the purchase transaction. The declaration of ownership (customer signature) must appear on each page of the contract.

(D) *DIGITAL PHOTOGRAPH OF CUSTOMER:* FOR EACH CONTRACT FOR PURCHASE OR PURCHASE TRANSACTION, THE PAWNBROKER OR SECONDHAND DEALER SHALL CAPTURE A DIGITAL PHOTOGRAPH THAT PROVIDES A CLEAR AND UNOBSTRUCTED VIEW OF THE SELLER'S FACE.

(E) *UPLOADING INFORMATION:* EACH PAWNBROKER AND SECONDHAND DEALER SHALL UPLOAD ALL INFORMATION CONTAINED IN THE REGISTER REQUIRED BY SUBSECTIONS (A) THROUGH (C) HEREOF, AS WELL AS THE DIGITAL PHOTOGRAPH REQUIRED BY SUBSECTION (D) HEREOF, TO THE ON-LINE REPORTING SERVICE FOR EACH CONTRACT FOR PURCHASE AND PURCHASE TRANSACTION INVOLVING AN ITEM PURCHASED FOR THIRTY DOLLARS (\$30.00) OR MORE, NO LATER THAN THE CLOSE OF BUSINESS OF THE BUSINESS DAY DURING WHICH THE

CONTRACT WAS ENTERED INTO OR THE PURCHASE TRANSACTION OCCURRED.

(~~d~~ F) *Inspection of register by law enforcement agencies.* The register shall be made available to any local law enforcement agency for inspection upon request at any reasonable time.

(~~e~~ G) *Preservation of registers.* Every pawnbroker AND SECONDHAND DEALER shall keep each register for at least three (3) years after the date of the last transaction entered in the register.

(~~f~~ H) *Disposition of goods upon maturity of contract for purchase.* Every pawnbroker shall hold all goods obtained pursuant to a contract for purchase within his or her jurisdiction for a period of ten (10) days following the maturity date of the contract for purchase, during which time such goods shall be held separate and apart from any other tangible personal property, shall not be displayed to the public and shall not be changed in form or altered in any way.

(~~g~~ I) *Disposition of purchased property.* Every pawnbroker AND SECONDHAND DEALER shall hold all property purchased by him or her through a purchase transaction for thirty (30) days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property, shall not be displayed to the public and shall not be changed in form or altered in any way.

(~~h~~ J) *Provision of records to law enforcement.* Every pawnbroker AND SECONDHAND DEALER shall provide the police department, on a weekly basis, with a record of all tangible personal property accepted during the preceding week, including the customer's declaration of ownership. Such records shall be submitted in electronic form, or such other form and number as approved from time to time by the police department, and shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection (a) of this section. The pawnbroker shall obtain the right index fingerprint from the customer and affix it to a box provided for that purpose on the form. The police department shall designate the day of the week on which the records and declarations shall be submitted.

(~~i~~ K) *Provision for safekeeping.* Every pawnbroker AND SECONDHAND DEALER shall provide a safe place for keeping the tangible personal property of the customers.

(~~j~~ L) *Firearms.* Every pawnbroker AND SECONDHAND DEALER shall clear, through the police department, prior to release, all firearms, other than those which are newly manufactured and which have not been previously sold at retail.

(~~k~~ M) *Videotaping of transactions.* Every pawnbroker AND SECONDHAND DEALER shall videotape all transactions, including those which do not result in a contract for purchase or purchase transaction. The videotape shall be in a format approved by the police department and of such quality that it visibly displays the item(s) and an identifiable frontal image of the customer. Any such videotapes shall be kept by the pawnbroker OR SECONDHAND DEALER for a minimum of ninety (90) days and shall be subject to police review. If the videotape contains photographic evidence, as determined by the police department, it shall be kept by the pawnbroker OR SECONDHAND DEALER for one hundred eighty (180) days.

(~~l~~ N) *Fee for transaction forms.* Every pawnbroker AND SECONDHAND DEALER shall pay to the city a fee for every transaction form. This fee shall be determined by the city and set by resolution.

(~~m~~ O) *Redemption of property.* The redemption of pawned property may be made only by the person who originally pawned the property. Every pawnbroker shall ensure that the property is released only to the original pawner. Every pawnbroker shall verify the pawner's identity upon redemption of the contract for purchase, via acceptable identification.

(~~n~~ P) *Preservation of records and provision of reports.* Every pawnbroker AND SECONDHAND DEALER shall, at his or her expense, keep records or provide reports in such manner and by such methods as may be determined from time to time by the police department. The pawnbroker OR SECONDHAND DEALER shall provide the police department with a list of employees, their dates of birth and their employee identification numbers.

Section 6. Section 11-184 of the Wheat Ridge Code of Laws, concerning identification required for a contract for purchase or purchase transaction, is hereby amended as follows:

Sec. 11-184. Identification acceptable.

(a) No ~~licensee~~ PAWNBROKER OR SECONDHAND DEALER nor any principal, employee, agent or servant of such PAWNBROKER OR SECONDHAND DEALER ~~licensee~~ shall engage in a purchase transaction or shall enter into a contract for purchase transaction with any customer without securing one of the following kinds of then-current and valid identification:

- (1) A Colorado's driver's license;
- (2) Identification card issued in accordance with C.R.S., § 42-2-402, which is an identification card issued by the State of Colorado;

(3) A valid driver's license containing a picture, issued by another state;

(4) A military identification card;

(5) A valid passport;

(6) An alien registration card; or

(7) A nonpicture identification document issued by a state or federal government entity.

(b) A right index fingerprint is required on all transactions and must be affixed to the form in accordance with the requirements of section 11-183(h J) above.

Section 7. Section 11-186 of the Wheat Ridge Code of Laws, concerning prohibited acts of pawnbrokers, is hereby amended as follows:

Sec. 11-186. Prohibited acts of pawnbrokerS AND SECONDHAND DEALERS in the course of doing business.

(a) *Age limitation; sobriety.* No pawnbroker OR SECONDHAND DEALER, OR employee or agent THEREof ~~the pawnbroker~~, shall enter into a contract for purchase or purchase transaction with any person under the age of eighteen (18) years or with any person under the influence of alcoholic beverages or drugs.

(b) *Dealing with thieves.* No pawnbroker OR SECONDHAND DEALER, OR employee or agent THEREof ~~the pawnbroker~~, shall enter into a contract for the purchase or purchase transaction with any person known to that employee or agent to be a thief or to have been convicted of larceny or burglary without first notifying the police department. Such notice shall not be deemed as authorization by the city for the pawnbroker to enter into any contract with such person.

(c) *Multiple obligations.* With respect to a contract for purchase, no pawnbroker, employee or agent of a pawnbroker may permit any customer to become obligated on the same day in any way under more than one contract for purchase agreement with the pawnbroker which would result in the pawnbroker obtaining a greater amount of money than would be permitted if pawnbroker and customer had entered into only one contract for purchase covering the same tangible personal property.

(d) *Violation of contract for purchase by pawnbroker.* No pawnbroker, employee or agent of a pawnbroker shall violate the terms of the contract for purchase.

(e) *Accepting property with obscured identification marks.* No pawnbroker OR SECONDHAND DEALER, OR employee or agent THEREof, ~~a pawnbroker~~ shall enter into a contract for purchase or purchase transaction for any tangible personal property wherein the identification number, serial number, model number, brand name, owner's identification number or other identifying marks on such property have been totally or partially obscured.

(f) *Accepting tangible property for contract for purchase or purchase transaction.* No pawnbroker OR SECONDHAND DEALER, OR employee or agent THEREof, ~~a pawnbroker~~ shall enter into a contract for purchase or a purchase transaction when the property which is the subject of the contract for purchase or purchase transaction is other than tangible property.

(g) *Interest, commission and compensation.* No pawnbroker, employee or agent of a pawnbroker shall ask, demand or receive any greater rate of interest, commission and compensation than the total rate of one-tenth of the original purchase price for each month, plus the original purchase price, on amounts of fifty dollars (\$50.00) or over, or one-fifth of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars (\$50.00). No other charges shall be made by the pawnbroker upon renewal of any contract for purchase or at any other time. In the event any such charges are made, the contract shall be void. Any contract for the payment of commissions by the customer for making a contract for purchase on tangible personal property shall be null and void.

(h) *Violation by agents.* The violation of this section by an agent or employee of a pawnbroker OR SECONDHAND DEALER shall be deemed to be a violation of this section by the pawnbroker OR SECONDHAND DEALER.

Section 8. Section 11-189 of the Wheat Ridge Code of Laws, concerning hold orders and the surrender of certain property, is hereby amended as follows:

Sec. 11-189. Hold orders and surrender of property.

(a) Any police officer may order a pawnbroker OR SECONDHAND DEALER to hold any tangible personal property deposited with or in custody of ~~any~~ THE pawnbroker OR SECONDHAND DEALER for purposes of further investigation. A hold order shall be effective upon verbal notification to the pawnbroker OR SECONDHAND DEALER by

an authorized agent of the police department. No sale or other disposition may be made of such property held by any pawnbroker OR SECONDHAND DEALER while the hold order remains outstanding. A hold order shall supersede all other provisions of this article and any sale or other disposition of the property after the pawnbroker OR SECONDHAND DEALER has been notified by the police department of a hold order shall be unlawful and a violation of this article.

(b) If any police officer determines that any article of personal property held by a pawnbroker OR SECONDHAND DEALER is stolen or illegally obtained property, such officer may immediately confiscate such property and must provide the pawnbroker OR SECONDHAND DEALER with a receipt, case report number and/or the police report evidence sheet setting forth the basis for the confiscation.

Section 9. Section 11-191 of the Wheat Ridge Code of Laws, concerning pawnbroker liabilities, is hereby amended as follows:

Sec. 11-191. Liability of pawnbroker OR SECONDHAND DEALER.

(a) A pawnbroker OR SECONDHAND DEALER who accepts any article in a purchase or contract of purchase transaction from a customer who is not the owner thereof obtains no title in the article either by reason of the expiration of the contract or by transfer of the receipt to the pawnbroker by the customer or holder thereof. Ignorance of the fact that the article was lost or stolen shall not be construed to effect the question of the title. If the pawnbroker OR SECONDHAND DEALER shall sell such article to a third person, the pawnbroker OR SECONDHAND DEALER shall remain liable to the original owner in an action to recover the article. The lawful owner may, upon proof of his or her ownership of the article lost or stolen, claim the same from the pawnbroker OR SECONDHAND DEALER or recover the same by appropriate legal means including, without limitation, forfeiture of the fair market value of such article out of the bond required by section 11-176.

(b) A pawnbroker shall be liable for the loss of tangible personal property or part thereof or for damages thereto, whether caused by fire, theft, burglary or otherwise, resulting from his or her failure to exercise reasonable care in regard to it.

Section 10. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City

Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 11. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 12. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 8th day of August, 2016, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for August 22, 2016, at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 22nd day of August, 2016.

SIGNED by the Mayor on this 22nd day of August, 2016.



ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Joyce Jay
Joyce Jay, Mayor

Approved As To Form

Gerald E. Dahl
Gerald E. Dahl, City Attorney

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