

AN ORDINANCE TO CREATE A NEW ARTICLE III OF THE OFFENSES AND MISCELLANEOUS PROVISIONS ORDINANCE TO REGULATE LEGALLY NONCONFORMING PAWNBROKERS WITHIN THE CITY LIMITS OF PEACHTREE CITY; TO PROVIDE FOR ENFORCEMENT; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEACHTREE CITY, GEORGIA, THAT:

Section 1. The Offenses and Miscellaneous Provisions Ordinance of the City of Peachtree City, Georgia, as amended, is hereby further amended by adding a new Article III, Pawnbrokers, as follows:

ARTICLE III. – PAWNBROKERS

Sec. 50-200 - In General.

No new pawn shop may be opened within the city limits of Peachtree City. For pawn shops that exist as a legally non-conforming use, the licensing policy in this ordinance shall apply. Legally non-conforming uses shall comply with Section 906 of the Peachtree City Zoning Ordinance.

Sec. 50-201. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section or shall have the same meaning as set forth in the Official Code of Georgia Annotated, § 44-12-130, should those definitions differ:

Employee shall mean any person who works in a pawnshop, whether on a part-time or full-time basis, regardless of whether remuneration is received or not.

Licensee shall mean a person holding a license issued by Peachtree City to engage in the business of being a pawnbroker and/or to operate a pawnshop.

Month shall mean that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month.

Pawnbroker shall mean 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 on the condition that it 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 from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described in this paragraph.

Pawnshop shall mean any place of business operated by a pawnbroker where pawn transactions take place.

Pawn transaction shall mean any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods may be redeemed or repurchased by the pledger or seller for a fixed price within a fixed period of time.

Person shall mean an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Pledged goods shall mean tangible personal property, including, without limitation, all types of motor vehicles or any motor vehicle certificate of title, which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction. However, for purposes of this division, possession of any motor vehicle certificate of title which has come into the possession of a pawnbroker through a pawn transaction made in accordance with law shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker shall retain physical possession of the motor vehicle certificate of title for the entire length of the pawn transaction but shall not be required in any way to retain physical possession of the motor vehicle at any time. The term "pledged goods" shall not include choses in action, securities, or printed evidences of indebtedness.

Sec. 50-202. - General policies and purposes.

- (a) Pawnbrokers may operate only after the issuance of a license for such operation by the city and only in the manner permitted by such license. Pawn transactions may only occur through a licensee who complies with the rules and regulations of this division and with the licensing, regulatory and revenue requirements of the state of Georgia.
- (b) All licenses are a mere grant or privilege subject to all terms and conditions imposed by this ordinance and state law and subject to being revoked by the city.
- (c) Each licensee of the city shall display the license issued under this division prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.

Sec. 50-203. - Location of businesses.

All businesses licensed under this division shall be located in strict compliance with the Peachtree City zoning ordinance and at a location with an identifiable street address, which shall be stated on the license or renewal application along with other required information. No business licensed under this division shall change its address without giving advance notice to the city and receiving an approval of the change, such approval to be granted if the new location complies with this division and the Peachtree City Zoning Ordinance. No business licensed under this division shall be operated in or from a motel or hotel.

Sec. 50-204. - Qualifications for issuance of license.

Any person who desires to obtain a license to engage in the business of a pawnbroker and/or for the operation of a pawnshop must meet the minimum qualifications set forth in this section. If

the applicant is a partnership, each partner must meet the qualifications of any individual license and must make sworn statements of these qualifications as part of the applications process. If the applicant is a corporation, the majority stockholder and each principle officer of the corporation must meet the qualifications as part of the applications process.

- (a) No owner, employee, pawnbroker or any person connected with a pawnshop for which a license or permit is sought shall have been convicted of or entered a plea of nolo contendere to any felony within five years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, theft, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within five years prior to the date of the application. Further, no permit or license shall be issued to any applicant on active probation or parole.
- (b) No license shall be granted to an applicant who is under the age of 18 years of age.
- (c) All persons filing an application for a pawnshop license will be required to complete a waiver in order for the applicant's criminal history to be obtained.
- (d) No license shall be granted where the applicant has had any pawnshop license issued by any county, municipality, or other governmental subdivision suspended or revoked.
- (e) No license shall be granted for a location that is not in compliance with any federal, state, or local regulation including, but not limited to, a state certificate of occupancy or a Peachtree City certificate of occupancy.
- (f) No license shall be issued where the applicant has supplied false information in the license application or where any required fee has not been paid by such applicant, including any fees or assessments owed to other departments of the city.
- (g) No license shall be issued unless the applicant and each individual licensee is and continues to be a resident of the State of Georgia. Corporations must either be incorporated in the State or Georgia or must have registered to do business in this State, and only the applying general manager or applying corporate officer must meet the residency requirements.

Sec. 50-205. - Employee permit required.

- (a) No person shall be an employee of a pawnshop in any capacity until such person has been authorized by the police department to be employed by a pawnshop and issued an employee's identification permit.
- (b) No employee permit shall be issued to any person who has been convicted of or entered a plea of nolo contendere to any felony within five years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, theft, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within five years prior to the date of the application.
- (c) While on duty in any licensed establishment, every person required to possess a pawnshop employee identification permit shall have their permit conspicuously displayed on their person and visible at all times. The person shall have the option of wearing the permit in a manner that only the first name and first letter of the last name (last initial) are displayed to the public. All permits issued under this section shall be made available for inspection upon the demand of any law enforcement officer employed by the city police department.

- (d) In any prosecution for violation of subsection (c), it shall be presumed that the manager or employee did not have a permit unless the permit was displayed as required in the same subsection (c).
- (e) The penalty for violating any of the provisions of this section shall be a City Code violation (misdemeanor) punishable by a fine not to exceed \$1,000.00.

Sec. 50-206. - Annual license.

Before operating a pawnshop or becoming an employee of a pawnshop, any person must first file an application with the Peachtree City Police Department for a license to operate or be employed in the pawnshop, pursuant to the following:

- (a) The application shall be made on an annual basis;
- (b) No license shall be issued until a fee in an amount established by action of the city council, a copy of which is on file with Peachtree City Police Department, is paid to the city;
- (c) The application shall state the physical address of the pawnshop;
- (d) The application shall contain the full name, street address, mailing address, phone number, facsimile number, e-mail address, Social Security number, and date of birth and of any employee, owner, or pawnbroker;
- (e) The Police Department or any other officer of the city designated by the chief of police shall investigate each applicant for such license and shall make a report to the Police Chief as to whether such applicant is a person of good character and as to whether such applicant has been convicted of a criminal offense as described in subsection (a) of section 50-204 of this division.
- (f) Any license holder subject to this division shall apply for renewal of any existing license and shall pay the annual license fee no later than November 1 of each calendar year in which it does business.

Sec. 50-207. - Application for license.

- (a) All applications required in section 50-206 of this division shall be in writing and on forms provided by the police department.
- (b) All applications shall be completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths.
- (c) All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information, and records within 30 days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person(s) who are considered relevant to the ascertainment of facts relative to such license, as may be requested by the police department or other official designated by the police chief. The failure to produce such persons within 30 days after being requested to do so may result in denial of the application.
- (d) Each application shall be accompanied by an affidavit of each person whose name appears on the application stating that said person has not been convicted or entered a plea of nolo contendere to

any of the crimes listed in section 50-204(a) of this division within the time periods specified in said section.

- (e) Each application shall be accompanied by a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.
- (f) No pawnshop shall be operated at the same location or in the same premises with the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise. No license for the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise shall be issued for a location licensed as a pawnshop.
- (g) Each applicant shall certify on the application that they have read this ordinance and, if the license is granted, each licensee shall maintain a copy of this ordinance on the premises.
- (h) Upon receipt of an application, as well as all accompanying documents and required investigative and license fees, the police department will begin a criminal investigation of the applicant and prepare a written criminal investigation report detailing all information relating to fingerprinting, criminal history, arrest data, and other matters pertinent to law enforcement. Upon completion of the criminal investigation report, the police department shall assemble the tendered application forms and accompanying documents relating to the investigation and processing of the application and deliver such documents to the police chief or his or her designee. If the criminal investigation report shows that the applicant fails to meet the requirements set by this ordinance, or if the applicant fails to meet all other requirements outlined by this ordinance, then the police chief or his or her designee shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his or her right to appeal. Such appeal shall be before the city council in accordance with section 50-220 of this ordinance. If an applicant desires to appeal a denial, the applicant must file a written request for an appeal with the city clerk within ten business days of the date of the written notice informing the applicant of the denial of the license.
- (i) Any application that the police chief or his or her designee determines to satisfy all the requirements outlined in this division, including character requirements as contained in the criminal investigation report, shall be approved.
- (j) In all instances in which an application is denied, the applicant may not reapply for the same type of license for at least one year from the date of denial.
- (k) Upon the issuance of a license, the licensee must have and continuously maintain in the city a registered agent upon whom any process, notice, or demand required or permitted by law or under this division may be served. This person must be an individual and must be a resident of the Fayette County. The licensee shall submit the name of such agent, along with the written consent of such agent, to the police department. The identity of the agent may also be submitted contemporaneous to filing the license application.
- (l) Upon approval of the application for a license, the police department shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation, the license shall be issued in the name of the corporation and in the name of the majority stockholder or a principal officer of the corporation. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one of the partners. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted

on or after July 1 shall be one-half the annual license fee. License fees are not refundable once the license is granted by the city.

Sec. 50-208. - Forfeiture.

Any holders of a license under this division who ceases to operate the business as authorized in the license for a period of three consecutive months shall automatically forfeit his or her license, which license shall by virtue of such failure to operate be canceled without the necessity for any further action by the police chief or his or her designee. No future license will be granted for the location.

Sec. 50-209. - Transfers.

No license granted for a pawnshop shall be transferable except upon application to the police department in the same form and manner, and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred only to another applicant doing the same business at the same place as the license holder to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the police chief or his or her designee who shall record such transfer, and the transferee shall pay a fee as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established in a schedule of fees adopted by the city council.

No transfer shall be approved if the business ceases to operate for a period of three consecutive months.

Sec. 50-210. - Disposal of articles.

Any pawnbroker or employee of a pawnshop who makes a loan on pledged goods, or buys pledged goods on the condition that the seller may repurchase said goods, shall hold said goods for at least 30 days before disposing of them by sale, transfer, shipment or otherwise. Non-pledged goods bought under this section shall be held for at least 30 calendar days before disposing of them by sale, transfer, shipment or otherwise.

Sec. 50-211. - Minors.

It shall be unlawful for any pawnbroker or employee of a pawnshop to receive goods in pawn, trade, purchase or sale from a person of less than 18 years of age.

Sec. 50-212. - Hours of operation.

All holders of licenses under this division shall operate only between 9:00 a.m. and 9:00 p.m., Monday through Saturday.

Sec. 50-213. - Lost or stolen items.

- (a) It shall be the duty of every person operating a pawnshop or employed by a pawnshop to report to the Peachtree City Police Department any article or goods sold or pawned to him or her if he or she shall have a reason to believe that the article or goods were stolen or lost when presented by the seller or customer.
- (b) With respect to any items which would normally have a serial number or other means of identification, if any pawnbroker or employee of a pawnshop becomes aware that such items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the Peachtree City Police Department.
- (c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his or her employee is the subject of any reported theft, then the surrender of said item to the Peachtree City Police Department shall be done upon demand.

Sec. 50-214. - Suspension and revocation of license.

Immediate suspension, revocation, or forfeiture of a license shall occur only after notice and opportunity for a hearing before the city council consistent with the procedures set forth in this division and only upon the following occurrences:

- (a) Any license issued under this division for the operation of a pawnshop shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet or property therein.
- (b) Except as provided in this division, any change in the ownership of any entity operating or owning a licensed outlet shall be grounds for revocation of the license by the city council.
- (c) A license shall be immediately suspended or revoked by the city council upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this division.
- (d) The city council shall immediately suspend or revoke the license of any licensee who does not meet the qualifications set forth in this division at any time such information becomes known to the city council.

Sec. 50-215. - Record of transactions.

- (a) Every pawnbroker shall maintain a permanent electronic record of its pawn transactions in which an accurate description of all property pledged, traded or sold to the pawnshop can be transmitted to the Peachtree City Police Department via an electronic automated reporting system, approved by the Peachtree City Police Department. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnshop and shall be made at the time of each transaction, provided that the following information is included:
 - (1) The date and time of the purchase, pawn or sale of the property.
 - (2) The full name, street address and telephone number of the customer making the pledge, trade or sale.

- (3) A description of the customer in terms of sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.
 - (4) A description of the pledged or purchased property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).
 - (5) The number of the receipt or pawn transaction issued for the property pawned or bought.
 - (6) The price paid or the amount loaned.
 - (7) The maturity date of the transaction, if a pawn.
 - (8) A photograph of the customer and the item pawned or bought which will be taken with the electronic automated reporting system at the time of the transaction.
 - (9) The signature of the customer.
 - (10) The fingerprint of the customer as generated by the electronic automated system.
- (b) Every pawnshop shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the Peachtree City Police Department.
- (c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, pawnshops and pawnbrokers will be notified as soon as possible. In this event, the pawnbrokers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this Code section. Pawnbrokers shall maintain a three-day supply of these paper forms.
- (d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic records at the pawnbroker's place of business to ensure compliance with this section.
- (e) The Peachtree City Police Department shall select and designate the required automated reporting system.

Sec. 50-216. - Identification required.

All businesses licensed under this division shall, when receiving or purchasing goods, require a proper identification (e.g., driver's license, military I.D. card, state approved I.D. card or company employee I.D. card) containing a picture showing positive identification of the person who is selling or trading, or such identification shall be verified.

Sec. 50-217. - Fingerprinting required.

All businesses licensed under this division shall require every person from whom it accepts goods to place the fingerprint of his or her right index finger (if right index finger is missing, the next finger in line will be used) on the copy of the purchase ticket which is to be sent to the Peachtree City Police Department.

Sec. 50-218. - Erasures, obliterations, write-overs and type-overs not allowed.

No person licensed under this division shall erase, obliterate, type over, write over or in any way cause the original entry on the records required under this division to become illegible. All purchase tickets filled out in error shall be sent to the Peachtree City Police Department in their numbered order along with daily reports and shall have the word "VOID" typed or written across the front; such entry shall not be used to cause the original entry to be illegible. If an error is made and the ticket is still to be used, then a single line shall be drawn through the incorrect entry. This line shall not cause the original entry to be illegible and the correct information entry shall be made on the next available area.

Sec. 50-219. - Violations.

- (a) It shall be unlawful for any pawnbroker or employee of a pawnshop to violate any of the provisions of this division, whether or not such person or employee is the holder of a current valid permit issued according to the terms of this division. Further, any person failing to comply with any provision of this division or other rules, ordinances and regulations as may be passed by the city council for conduct of the business of a pawnbroker, shall upon conviction, have the license to conduct such business revoked.
- (b) It shall be unlawful for any pawnbroker or employee of a pawnshop to:
 - (1) Make any false statement in an application for any permit provided for in this division.
 - (2) Make any false entry in any record book, ledger or form required by the terms of this division.
 - (3) Violate any criminal law of this state while acting in the course of business as a pawnbroker or employee of a pawnbroker.
- (c) The penalty for violating any of the provisions of this section shall be a City Code violation (misdemeanor) punishable by a fine not to exceed \$1,000.00.

Sec. 50-220. - Appeal procedure.

- (a) Upon receipt of a timely appeal of an administrative denial, or upon alleged violation of those items in section 8-294, the city clerk or his or her designee shall schedule a hearing before the city council and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The city clerk or his or her designee shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the city manager and the adverse party and/or counsel for the adverse party.
- (b) The city council shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

- (c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his or her case, to rebut the allegations made against him or her, and present whatever defenses he or she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses. An opportunity for rebuttal shall be provided.
- (d) At the conclusion of the hearing, the findings and conclusions of the city council shall be forwarded to the city clerk or his or her designee and it shall be the duty of the city clerk or his or her designee to provide written notification via certified mail to the adverse party of the decision of the city council.
- (e) The decision of the city council shall be final unless appealed to the Superior Court of Fayette County within 30 days of receipt by the adverse party of the written notification of the decision of the city council.

Section 2. All ordinances or parts thereof which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any provision thereof other than the provisions specifically declared to be invalid. The City Council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared invalid.

Section 4. This ordinance shall be in full force and effect upon its official adoption by the City Council.

This _____ day of _____ 2018.

Vanessa Fleisch, Mayor

Attest: _____
Betsy Tyler, City Clerk

