

Ordinance No. 3458

An ordinance amending the Broken Arrow Code of Ordinances, Chapter 7, Business Regulations and Licenses, Article V. Pawnbrokers, Section 7-89. – Pawnbroker defined, specifically defining terms as used in this Chapter; Section 7-92. – Reserved; specifically adding eligibility requirements to obtain a pawnshop license; amending Section 7-95. – Required information; material, specifically requiring fingerprints of the applicant to be submitted with the license application; Reserving Section 7-103. – Records required; amending Sec. 7-105. – Reports to police, specifically requiring pawnbrokers to report to the police department, within two days, any buy transaction or pawn transaction.; amending Section 7-106. – Inspections, specifically allowing an officer who has probable cause to believe property is stolen or embezzled to place a written hold on such property; amending Section 7-112. – Penalties, specifically defining the punishment for violating Sections regulating Pawnbrokers; adding regulations for Precious Metals and Gems, Section 7-152. - Definitions; Section 7-153. - State license, specifically requiring precious metal and gem dealers to maintain a valid State license; Section 7-154. – Records to be maintained, specifically requiring dealers to keep a record of any transaction involving the purchasing of any used item made or containing precious metals or gems; Section 7-155. – Certain goods to be kept by Dealer: Time and Procedure, specifically allowing an officer who has probable cause to believe property is stolen or embezzled to place a written hold on such property and requiring dealers to keep such metals and gems on hold for a period of ten days; Section 7-157. – Penalty, specifically defining the punishment that may be imposed for violating Sections regulating Precious Metals and Gems; repealing all ordinances to the contrary and declaring an emergency

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-89. - Pawnbroker defined, is hereby amended to read as follows:

ARTICLE V. – PAWNBROKERS

Sec. 7-89. - Pawnbroker defined.

The following words and phrases shall have the meanings given herein.

A. Pawnbroker means any person engaged in the business of making pawn transactions, any person who loans money on deposit or pledge of personal property or other valuable thing, or who engages in loaning money upon chattel property for security and requiring possession of the property so mortgaged or pledged, or who deals in the purchase of personal property on condition of selling the same back again at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, to wit: Three gilt or yellow balls; or who publicly exhibits any sign of money to loan on pledged personal property, or whose firm name publicly exhibited denotes their business as that of loaning money on pledged

personal property, or who offers for sale personal property exhibited and advertised as unredeemed pledges.

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

C. Pledged goods means tangible personal property other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

D. Pawn transaction means the act of lending money on the security of pledged goods or the act of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time,

SECTION II. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-92. – Reserved, is hereby amended to read as follows:

Secs. 7-92. – Eligibility for a pawnshop license

A. To be eligible for a pawnshop license, an applicant shall:

1. Be of good moral character;
2. Have net assets of at least Twenty-five Thousand Dollars (\$25,000.00); and
3. Show that the pawnshop will be operated lawfully and fairly within the purpose of the Oklahoma Pawnshop Act.

B. The Administrator shall find ineligible an applicant who has a conviction for a felony crime that substantially relates to the occupation of a pawnbroker or poses a reasonable threat to public safety.

C. If the Administrator is unable to verify that the applicant meets the net assets requirement for a pawnshop license, the Administrator may require a finding, including the presentation of a current balance sheet, by an accounting firm or individual holding a permit to practice public accounting in this state, that the accountant has reviewed the books and records of the applicant and that the applicant meets the net assets requirement.

D. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and
2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

SECTION III. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-95. - Required information; material, is hereby amended to read as follows:

Sec. 7-95. - Required information; material.

Each person, before conducting business as a pawnbroker, shall:

- (1) Be licensed by the State of Oklahoma as a pawnbroker;
- (2) Register a state license with the City;
- (3) Provide the bonds required by this article;
- (4) Provide identifying information of the owner or operator in charge of the business, including a true name, fictitious names, age, present address, business names under which the pawnbroker has conducted any similar businesses for the 12 months preceding the date of this registration, and identifying the approximate location of where the business will be conducted;
- (5) Provide a recent photograph of himself; and
- (6) Provide a set of fingerprints with the application.

Corporate pawnbrokers shall furnish the names and addresses of all corporate officers.

SECTION IV. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-103. - Records required, is hereby reserved:

Reserved

SECTION V. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-105. – Reports to police, is hereby amended to read as follows:

Sec. 7-105. - Reports to police.

A. Each pawnbroker shall provide a transaction report to the police department within two (2) days of any buy transaction or pawn transaction by either electronically reporting the information in the transaction report to an electronic database or by reporting a physical copy of the transaction report directly to the police department. This report shall include:

- (1) The name and address of the pawn shop;
- (2) Name, address, race, sex, weight and height, date of birth, and identification number of the seller, as verified by either a state issued identification card, driver's license or federal government issued identification card or by readable fingerprint of right or left index finger on the back of the pawn or buy transaction copy to be retained for the pawnbroker's record;
- (3) Buy or pawn transaction number;
- (4) Date and time of the transaction;
- (5) Manufacturer of the item;
- (6) Description of the item;

- (7) Serial number and model number, where available; and
- (8) Any other identifying markings.

Provided, that the provisions of this section shall not apply to any property purchased from manufacturers or wholesale dealers who have an established place of business; however, invoices covering such property shall be shown upon request to the chief of police or his duly authorized representative.

- B. Items bought, except on invoice from a manufacturer or wholesaler with an established place of business, shall be held for ten (10) days before being disposed of or sold.
- C. The pawnbroker shall obtain a written declaration of ownership from the seller or pledgor on all buy and pawn transactions, except refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an established place of business. The seller or pledgor shall be required to state how long he has owned the property described in the transaction. The declaration of ownership shall appear on the bill of sale or pawn ticket, to be completed by the seller or the pledger at the time of the transaction.

SECTION VI. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-106. - Inspections, is hereby amended to read as follows:

Sec. 7-106. - Inspections.

- A. The record of transactions required by the provisions contained within this article shall be open for inspection by the police department at any time during business hours, and the police department shall also have the right to thoroughly inspect the premises, store or place where the business so recorded is being conducted at any time in search of any lost or stolen property, or to compare the entries kept in such records with the articles located on such premises or place of business. All persons in charge of such business, and the agents and employees thereof, shall render to the police department such assistance as may be reasonably necessary to aid it in such inspection or search.
- B. Whenever a peace officer has probable cause to believe that property in possession of a licensed pawnbroker is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the pawnshop resides may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive thirty (30) day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the pawnbroker subject to any restrictions contained in the pawn contract. The initial written hold order shall contain the following information:

- 1. Signature of the pawnbroker or designee;
- 2. Name, title and identification number of the peace officer placing the hold order;

3. Name and address of the agency to which the peace officer is attached and the offense number;
 4. Complete description of the property to be held, including model number, serial number and transaction number;
 5. Name of agency reporting the property to be stolen or embezzled;
 6. Mailing address of the pawnshop where the property is held;
 7. Expiration date of the holding period.
- C. While a hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the pawnbroker's property rights or interest in the property. Otherwise, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the pawnbroker in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a pawnbroker to a written hold order shall be cause for the pawnbroker's license to either be suspended or revoked pursuant to State Statute. A hold order may be released prior to the expiration of any thirty-day holding period by written release from the agency placing the initial hold order.

SECTION VII. That Chapter 7, Business Regulations and Licenses, Article V., Pawnbrokers, Section 7-112. - Penalties, is hereby amended to read as follows:

Sec. 7-112. - Penalties.

Any person who shall violate any provisions of this chapter, either by doing anything which is prohibited or by failure or refusal to do anything which is commanded, shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), excluding costs, and/or by imprisonment in the City jail for a period of not more than ninety (60) days; providing that each day of such violation shall be deemed a separate offense. In addition, the city council, upon written recommendation by the chief of police, may file a report with the administrator of the Department of Consumer Credit for the State of Oklahoma requesting the state license be revoked.

SECTION VIII. That Chapter 7, Business Regulations and Licenses, Article VII, Telephone Companies, Division 1 – Public pay telephones on city property, Section 7-152. – Repealed, is hereby amended to read as follows:

PRECIOUS METALS AND GEMS

7-152. Definitions:

1. "Administrator" means the Administrator of the Department of Consumer Credit;
2. "Dealer" means any person, partnership, sole proprietorship, corporation or association which, in the regular course of business, takes, receives, pays for or transfers used precious metals or gems excluding any supervised financial institution as defined by the Consumer Credit Code, pawnbrokers licensed pursuant to Section [1501](#) et seq. of this title, and jewelers whose principal business is the sale of items purchased directly from the original manufacturer, wholesaler or their authorized representative and who in the regular course of such business, accept trade-in of items defined in this act as precious metals or gems, so long as the item or items to be traded are not greater in value than the item or items to be purchased. For purposes of this exception, retail jewelers may not buy used precious metals or gems for cash consideration only;
3. "Employee" means any person working for a dealer, whether or not the person is in the direct employment of the dealer or works full time or part time, who handles used precious metals or gems for the dealer. Employee shall not mean a person employed by a bank, armored car company or other business entity acting in the sole capacity of bailee-for-hire relationship with a dealer;
4. "Gem" means any precious or semiprecious stone or item containing a precious or semiprecious stone customarily used in jewelry or ornamentation;
5. "Precious metal" means platinum, gold or silver, but shall not mean any ingot or bar manufactured by a commercial mint nor shall it mean any or all coins; and
6. "Used" means previously sold or traded.

SECTION IX. That Chapter 7, Business Regulations and Licenses, Article VII, Telephone Companies, Division 1 – Public pay telephones on city property, Section 7-153. – Repealed, is hereby amended to read as follows:

7-153. State License

Every Precious Metal and Gem Dealer must maintain a valid State license to act in such capacity.

SECTION X. That Chapter 7, Business Regulations and Licenses, Article VII, Telephone Companies, Division 1 – Public pay telephones on city property, Section 7-154. – Repealed, is hereby amended to read as follows:

7-154. Records to be maintained

- A. Every dealer shall keep a record of any transaction with any person involving the purchasing of any used item made, or containing in whole or in part, any precious metal or gem. The following information shall be recorded for precious metals or gems:

1. An account and detailed description or photograph of the item purchased, including, if applicable, the manufacturer's name, the model, the model number, the serial number and any engraved marking;
2. The amount of money involved in the transaction;
3. The date;
4. The name, address and driver license number of the person involved in the transaction with the dealer; if the person has no driver license, then the date of birth and general physical description, including hair color and approximate height and weight of that person; and
5. The signature of the seller.

For purposes of describing the item or items in the transaction pursuant to paragraph 1 of this subsection, it shall be a violation for the dealer to state only the number of grams and type of precious metal or type of gem as a description. The description shall clearly and accurately describe each item containing any precious metals or gems presented to the dealer for purposes of the transaction.

- B. The record required by this section shall be kept for a period of four (4) years. Such record shall be made available during regular business hours for inspection by the Department of Consumer Credit and any law enforcement officer authorized by a law enforcement agency to inspect such record.
- C. No dealer shall be required to furnish the description of any new property purchased from manufacturers or wholesale dealers at an established place of business or of any goods purchased from any bankrupt stock. Such goods shall be accompanied by a bill of sale or other evidence of open and legitimate purchase. The bill of sale shall also be available for inspection during regular business hours.
- D. No dealer shall be required to furnish a description of property purchased from another licensed dealer or to meet the holding period provided for in Section 1531 of this title if that dealer has met the requirements provided for in subsection A of this section and Section 1531 of this title upon the initial purchase of the property; provided, that each shall record the license number of the other dealer and the amount of the transaction.

SECTION XI. That Chapter 7, Business Regulations and Licenses, Article VII, Telephone Companies, Division 1 – Public pay telephones on city property, Section 7-155. – Repealed, is hereby amended to read as follows:

7-155. Certain Goods to Be Kept by Dealer: Time and Procedure

- A. Every dealer must keep at the business location designated in the license application, all used articles made, in whole or in part, of precious metals or gems, for inspection by any law enforcement officer and the Department of Consumer Credit at reasonable times for a period of ten (10) days or until the articles have been released by written authorization of any law enforcement officer authorized by the law enforcement agency or its designee, except as provided for in subsection C of Section 1525 of this title. During this period, the appearance of such articles shall not be altered in any way. A dealer is not prohibited from

selling or arranging to sell such articles during the ten-day period as long as such articles remain in his or her possession as required by this section.

- B. Whenever a peace officer has probable cause to believe that property in possession of a licensed dealer is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the dealer is located may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive thirty-day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the dealer subject to any restrictions contained in a sale contract. The initial written hold order shall contain the following information:
1. Signature of the dealer or designee;
 2. Name, title and identification number of the peace officer placing the hold order;
 3. Name and address of the agency to which the peace officer is attached and the offense number;
 4. Complete description of the property to be held, including model number, serial number and transaction number;
 5. Name of agency reporting the property stolen or embezzled;
 6. Mailing address of the dealer where the property is held; and
 7. Expiration date of the holding period.
- C. While a hold order is in effect, the dealer may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the dealer's property rights or interest in the property. Otherwise, the dealer shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the dealer in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case and a description of the property. The dealer shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the dealer in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a dealer to a written hold order shall be cause for the dealer's license to either be suspended or revoked. A hold order may be released prior to the expiration of any thirty-day holding period by written release from the agency placing the initial hold order.
- D. Upon approval of the Administrator, a dealer may also designate an additional location for storage of items required to be held under the provisions of the Precious Metal and Gem Dealer Industry Act. This location shall be either a vault or a bank. The address of the designated additional location shall be filed with the Administrator. The Administrator shall require documentation to verify that the additional storage location will be utilized by the dealer, including, but not limited to, a lease or rental agreement between the dealer and the owner of the additional storage location. The Administrator shall also require the name,

contact person and telephone number of the additional storage location. The Administrator shall release the designated location only to law enforcement agencies. The designated additional location shall be available for inspection by the Department of Consumer Credit or any law enforcement officer of this state authorized by the law enforcement agency to inspect the same. A dealer shall provide written notice to the Administrator at least thirty (30) days prior to terminating a lease or rental agreement for an additional storage location.

SECTION XIII. That Chapter 7, Business Regulations and Licenses, Article VII, Telephone Companies, Division 1 – Public pay telephones on city property, Section 7-157. – Repealed, is hereby amended to read as follows:

7-157 Penalty

Any person violating any provision of this chapter, either by doing anything which is prohibited or by failure or refusal to do anything which is commanded, shall be guilty of an offense and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), excluding costs, and/or by imprisonment in the City jail for a period of not more than ninety (60) days. Each day of such violation shall be deemed a separate offense.

SECTION XIV. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION XV. An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this 7th day of November, 2016.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED:

ASSISTANT CITY ATTORNEY