

ORDINANCE NO. 16-965

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, that Article III, Precious Metals and Stones, of Chapter 8, Businesses, of the Code of Ordinances, City of Huntsville, Alabama, is hereby amended as follows:

Section 1. Article III of Chapter 8, Businesses, of the Code of Ordinances, City of Huntsville, Alabama shall be titled Precious Metals and Stones and Secondhand Goods.

Section 2. Article III of Chapter 8, Businesses, of the Code of Ordinances, City of Huntsville, Alabama shall have three (3) divisions: Division 1 – Generally; Division 2 – Precious Metals and Stones; and Division 3 – Secondhand Goods.

Section 3. Article III of Chapter 8, Businesses, of the Code of Ordinances, City of Huntsville, Alabama shall be amended to read as follows:

DIVISION 1. GENERALLY

Sec. 8-111. - Definitions

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

Precious metals and stones means and includes all gold, silver, pearls, diamond, rubies and other precious stones, and any ornament or item made from or containing gold or silver, or on which is set or displayed pearls, diamonds, rubies or other precious stones, including coins.

Precious metals and stones dealer means and includes any person who is engaged in the business of purchasing precious metals and stones, and is subject to the licensing requirements under Article II, Businesses Licenses of Chapter 15, Licenses and Taxes, of the Code of Ordinances, City of Huntsville, Alabama.

Secondhand dealer means and includes any person who buys, sells, or barter in secondhand goods, and is subject to the licensing requirements under Article II, Businesses Licenses of Chapter 15, Licenses and Taxes, of the Code of Ordinances, City of Huntsville, Alabama as a pawnbroker or other business, except for automotive dealers as defined therein; and/or any person not subject to such license classifications under Article II, Businesses Licenses of Chapter 15, Licenses and Taxes, of the Code of Ordinances, City of Huntsville, Alabama, who is engaged in the business of buying, selling, trading, or bartering secondhand goods; and/or any person who is a pawnbroker under the Alabama Pawnshop Act, Code of Ala. 1975, § 5-19A-1, et. seq.

Secondhand goods means any property of any kind or description which has been previously sold to or owned by a consumer or other person who is not a merchant as defined by Code of Ala. 1975, § 7-2-104; or that constitutes "pledged goods" under the Alabama Pawnshop Act, Code of Ala. 1975, § 5-19A-1, et. seq.; or that is sold or received as scrap or salvage property; provided, that household furnishings, clothing, waste, and animal waste or aluminum drink cans shall not be considered secondhand goods within this article.

Working days means and includes Monday through Friday of any week, excluding however, any official holiday as designated by the state.

Unless otherwise herein defined, the terms in this article have the same meaning as provided in the Alabama Pawnshop Act, Code of Ala. 1975, § 5-19A-1, et. seq.

Sec. 8-112. – Compliance generally.

It shall be unlawful for any person within the city to engage in the business of purchasing precious metals and stones, and/or the business of buying, selling or bartering in secondhand goods without complying with the terms of this article.

DIVISION 2. PRECIOUS METAL AND STONES

Sec. 8-113 through Sec. 8-115 shall remain the same with no changes.

Sec. 8-116. - Reports to Chief of Police required.

Each precious metals and stones dealer shall report to the Chief of Police a description of every precious metal and precious stone received by him/her in a manner and time as set out herein.

(a) *Reporting timeline.* All precious metals and stones received by a dealer shall be reported by noon on the following day, unless said following day is Sunday. Business done on Saturday shall be reported before noon on the following Monday.

(b) *Report Contents.* Reports shall include all information described and set forth in Section 8-114.

(c) *Computerized reporting.*

(1) Every precious metals and stones dealer, except those exempted below, shall transmit all required reports to the Chief of Police by means of electronic transmission. Said electronic transmission shall be through a modem or similar device, and in such a format that the data is capable of direct electronic entry into the Huntsville Police Department's computerized system used for identifying and tracing lost, stolen, and sought-after property.

(2) The Chief of Police shall establish the format and requirements for the transmission of data and may restrict the scope of the items that are to be electronically reported. A transaction reported by electronic transmission shall not be reported on paper forms unless the Chief of

Police so requests. Each precious metals and stones dealer shall pay to the city a fee of fifty cents (\$0.50) per transaction required to be electronically reported if the electronic report transmitted to the Chief of Police is erroneous, duplicative, or in an incorrect or incompatible format, or if no electronic report of the transaction is transmitted.

(3) Precious metals and stones dealers shall report their transactions electronically to the Chief of Police as follows:

- a. For each precious metals and stones dealer for which a city privilege license is first obtained on or after the effective date of the ordinance from which this section derives, effective upon commencing business.
 - b. For each precious metals and stones dealer for which a city privilege license was first obtained before the effective date of the ordinance from which this section derives, that maintains a computerized record-keeping system for its own record of transactions, no later than one month after the adoption of the ordinance from which this section derives.
 - c. For each other precious metals and stones dealer for which a city privilege license was first obtained before the effective date of the ordinance from which this section derives, not later than sixty (60) days after the effective date of this section. The Chief of Police may for good cause shown grant a precious metals and stones dealer a reasonable extension of the deadline. An extension may only be granted using the following procedure: The precious metals and stones dealer shall make written request for the extension and shall show that the precious metals and stones dealer is making satisfactory progress toward acquiring computer programs and equipment to make the necessary electronic reporting. The precious metals and stones dealer shall pay to the city a fee of fifty cents (\$0.50) per transaction reported after the deadline set forth above to offset the Huntsville Police Department's costs in converting the data from paper format into electronic form.
- (d) *Non-computerized reports.* Any precious metals and stones dealer who does not exceed ten (10) transactions per week at any one location (calculated from each Monday through the following Sunday, inclusive) is not required to electronically report transactions. A precious metals and stones dealer reasonably believing a location at which he or she conducts business qualifies under this subsection for exemption from computerized reporting and desiring to be exempt from this requirement shall sign, under penalty of perjury, a declaration to that effect in a form provided by the Chief of Police. Once the declaration is signed, so long as the volume of transactions does not exceed ten (10) each week, transactions in precious metals and stones need not be reported electronically; however, the precious metals and stones dealer must comply in all respects with Section 8-114, and must pay to the city the sum of fifty cents (\$0.50) per transaction to offset the police department's costs in converting the data from paper format into electronic form. If, in any two (2) weeks of any consecutive three-month period, the number of transactions exceeds ten (10), then the precious metals and stones dealer shall cease conducting transactions at that business location until a computerized system is in place and transactions are reported electronically in compliance with subsection (c)(1) herein.
- (e) *Amendments to reports and formats.* If, after establishing the format and requirements for the

transmission of computerized reports of transactions, the Chief of Police alters the required format, precious metals and stones dealers shall be given at least thirty (30) days to comply with the new format requirements.

- (f) *Unlawful to violate this section.* It shall be unlawful for any person to violate any provision of this section.

Sec. 8-117. - Purchase or acquisition from minors.

It shall be unlawful for any person engaged in the business of purchasing precious metals or precious stones to purchase or receive from any person less than nineteen (19) years of age any precious metals or precious stones.

Sec. 8-118. – Premises to be open for inspection.

The area and the premises where any person regulated by this article stores or keeps precious metals and stones purchased or acquired in the business shall be open to inspection to any police officer or official of the city at all times during business hours. It shall be unlawful to deny such an inspection or otherwise violate this section.

Sec. 8-119. - Concealment of items.

It shall be unlawful for any precious metals and stones dealer to conceal any precious metals and stones or other items regulated by this article from any official who may inspect the premises under § 8-118.

Sec. 8-120. - Cancellation and revocation of license.

The conviction of any person licensed to engage in the business regulated by this article for violating any of the provisions of this article, or the conviction of any agent, servant or employees of any licensed person for a violation of any of the provisions of this article, while such servant, agent or employee was acting in the line and scope of employment in the business, shall be cause for the revocation of the business license.

DIVISION 3. SECONDHAND GOODS

Sec. 8-121. - Record of purchases.

- (a) At the time of any transaction other than renewals, extensions or redemptions, every secondhand dealer must immediately record in English the following information by using ink or other indelible medium or in a computerized record approved by the police department:
- (1) A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
 - (2) The purchase price, amount of money loaned or cash advanced.

- (3) Date and time the item of property was received by the secondhand dealer, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the secondhand dealer's records.
 - (4) Full name, traceable serial number from the form of valid identification presented, current residence address, current telephone number, date of birth, race, height, sex and signature of the person from whom the item of property was acquired or purchased.
 - (5) The maturity date of the pawn transaction; the amount due on maturity date; the monthly rate; and any pawn charges.
- (b) The secondhand dealer must require the presentation of one of the following forms of identification, and keep a photocopy on file, from the person from whom the property is acquired or purchased.
- (1) Valid state-issued driver's license.
 - (2) Any valid state-issued or Armed Services-issued identification that includes a photograph of the person listed on the identification, to include a traceable serial number.
- (c) The secondhand dealer must take color digital photographs to be submitted to the Huntsville Police Department as digital images, in a format specified by the police department, which shall cross reference the transaction the photographs are associated with and depict the following:
- (1) Each customer involved in a transaction.
 - (2) *Every item sold or pawned.* Digital photograph(s) shall be taken of each individually identifiable article, at a resolution sufficiently detailed so as to allow reasonable identification of the article. The digital photograph(s) shall capture any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.
 - (3) The customer involved in the transaction shown with the property he/she pawned or sold.
 - (4) The secondhand dealer must inform the person that he or she is being photographed by displaying a sign of sufficient size in a conspicuous place in the premises. The photograph must be maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction. The major portion of the photograph must include an identifiable front facial close-up of the person who pawned or sold the item. Hats, sunglasses, scarves, or other clothing that may hide facial features may not be worn for the photograph.
- (d) Written records of transactions, photocopies, and photographs shall be maintained for a minimum of six (6) months from the date of the transaction and be available for inspection by the chief of police or his designee upon request.

Sec 8-122. - Reports to Chief of Police required.

Every secondhand dealer shall report to the Chief of Police a description of every secondhand good received by him/her in a manner and time as set out herein.

- (a) *Reporting timeline.* All secondhand goods received by a dealer shall be reported by noon on the following day, unless said following day is Sunday. Business done on Saturday shall be reported before noon on the following Monday.
- (b) *Report Contents.* Reports shall include all information described and set forth in Section 8-121.
- (c) *Computerized reporting.*
 - (1) Every secondhand dealer except those exempted by subsection (d) below, shall, before noon of each day, transmit to the Chief of Police, by means of electronic transmission through a modem or similar device, in such a format that the data are capable of direct electronic entry into the Huntsville Police Department's computerized system for identifying and tracing lost, stolen, and sought-after property, the information required by Section 8-121.
 - (2) The Chief of Police shall establish the format and requirements for the transmission of data and may restrict the scope of the items that are to be electronically reported. A transaction reported by electronic transmission shall not be reported on paper forms unless the Chief of Police so requests. Each secondhand dealer shall pay to the city a fee of fifty cents (\$0.50) per transaction required to be electronically reported if the electronic report transmitted to the Chief of Police is erroneous, duplicative, or in an incorrect or incompatible format, or if no electronic report of the transaction is transmitted.
 - (3) Secondhand dealers shall report their transactions electronically to the Chief of Police as follows:
 - a. For each secondhand dealer for which a city privilege license is first obtained on or after the effective date of the ordinance from which this section derives, effective upon commencing business.
 - b. For each secondhand dealer for which a city privilege license was first obtained before the effective date of the ordinance from which this section derives, that maintains a computerized record-keeping system for its own record of transactions, no later than one month after the adoption of the ordinance from which this section derives.
 - c. For each other secondhand dealer for which a city privilege license was first obtained before the effective date of the ordinance from which this section derives, not later than sixty (60) days after the effective date of this section. The

Chief of Police may for good cause shown grant a secondhand dealer a reasonable extension of the deadline. An extension may only be granted using the following procedure: The secondhand dealer shall make written request for the extension and shall show that the secondhand dealer is making satisfactory progress toward acquiring computer programs and equipment to make the necessary electronic reporting. The secondhand dealer shall pay to the city a fee of fifty cents (\$0.50) per transaction reported after the deadline to comply with the electronic reporting requirements to offset the Huntsville Police Department's costs in converting the data from paper format into electronic form.

- (d) *Non-computerized reports.* Any secondhand dealer who does not exceed ten (10) transactions per week at any one location (calculated from each Monday through the following Sunday, inclusive) is not required to electronically report transactions. A secondhand dealer reasonably believing a location at which he or she conducts business qualifies under this subsection for exemption from computerized reporting and desiring to be exempt from this shall sign, under penalty of perjury, a declaration to that effect in a form provided by the Chief of Police. Once the declaration is signed, so long as the volume of transactions does not exceed ten (10) each week, transactions in secondhand goods need not be reported electronically; however, the secondhand dealer must comply in all respects with Section 8-121, and must pay to the city the sum of fifty cents (\$0.50) per transaction to offset the police department's costs in converting the data from paper format into electronic form. If, in any two (2) weeks of any consecutive three-month period, the number of transactions exceeds ten (10), then the secondhand dealer shall cease conducting transactions at that business location until a computerized system is in place and transactions are being reported electronically in compliance with subsection (c)(1) herein.
- (e) *Amendments to reports and formats.* If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, secondhand dealers shall be given at least thirty (30) days to comply with the new format requirements.
- (f) *Unlawful to violate this section.* It shall be unlawful for any person to violate any provision of this section.

Sec. 8-123. - Purchases to be retained for fifteen days in original state; exception.

- (a) It shall be unlawful for any secondhand dealer to sell or otherwise dispose of any secondhand goods, or permit any secondhand goods to be sold or otherwise disposed of, or remove or permit to be removed any secondhand goods from such person's place of business, or intermingle any secondhand goods with other secondhand goods, or to alter, change or deface, or permit to be altered, changed or defaced, any secondhand goods, until after the expiration of fifteen (15) business days from the date of the purchase or acquisition thereof, unless such person obtains permission in writing from the Chief of Police clearing the secondhand goods.
- (b) Salvage yards that purchase salvage metals such as iron, aluminum, aluminum cans, copper, brass, bronze, and other scrap metals and alloys are permitted to intermingle property from multiple transactions and may remove the items from their premises for resale, provided all

the requirements set forth in Section 8-121 of the City Code have been met.

- (c) Secondhand dealers that purchase automobiles or other vehicles shall maintain the automobiles or other vehicles on the business premises in the same condition which they were purchased or otherwise received for twenty-one (21) calendar days before crushing, dismantling or otherwise disposing of said automobiles or other vehicles. The provisions of this subsection shall not apply to a "pledged goods" transactions governed by the Alabama Pawn Shop Act, Code of Ala. 1975, § 5-19A-1 et seq.

Sec. 8-124. - Purchase or acquisition from minors.

It shall be unlawful for any secondhand dealer to purchase or acquire in any manner any secondhand goods from any person less than nineteen (19) years of age.

Sec. 8-125. - Premises to be open for inspection.

The area and the premises where any person regulated by this article stores or keeps secondhand goods purchased or acquired in the business shall be open to inspection to any police officer or official of the city at all times during business hours. It shall be unlawful to deny such an inspection or otherwise violate this section.

Sec. 8-126. - Concealment of items.

It shall be unlawful for any secondhand dealer to conceal any secondhand goods or other items regulated by this article from any official who may inspect the premises under Section 8-125.

Sec. 8-127. - Cancellation and revocation of license.

The conviction of any person licensed to engage in the business regulated by this article for violating any of the provisions of this article, or the conviction of any agent, servant or employees of any licensed person for a violation of any of the provisions of this article, while such servant, agent or employee was acting in the line and scope of employment in the business, shall be cause for the revocation of the business license.

Sec. 8-128 through Sec. 8-140. Reserved

Section 4. With the exception of amendments made herein, all other portions of Article III of Chapter 8 of the Code of Ordinances, City of Huntsville, Alabama shall remain in full force and effect.

Section 5. *Severability.* The severability provisions of section 1-8 of the Code of Ordinances, City of Huntsville, Alabama shall apply to this ordinance.

Section 6. *Effective Date.* This ordinance shall become effective upon its adoption and approval.

ADOPTED on this the 12th day of January, 2017.

/s/ Jennie Robinson
President of the City Council of the
City of Huntsville, Alabama

APPROVED on this the 12th day of January, 2017.

/s/ Tommy Battle
Mayor of the City of Huntsville, Alabama