

ORDINANCE NO. 23-3439

AN ORDINANCE AMENDING CHAPTER 3 THE CITY CODE OF THE CITY OF ABILENE, KANSAS BY ADDING A NEW ARTICLE 17 PERTAINING TO LICENSING AND REGULATION OF PAWNBROKERS AND PRECIOUS METAL DEALERS IN THE CITY OF ABILENE, KANSAS.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION 1. Chapter 3 of the City Code of the City of Abilene, Kansas is hereby amended by adding a new Article 17 to read as follows:

Article 17. Pawnbrokers and Precious Metal Dealers

3-1701. Definitions.

For the purposes of this article, the following words and phrases shall mean:

- (a) *Pawnbroker* means any person who loans money on deposit or pledge of personal property or other valuable thing, other than intangible personal property, or who deals in the purchase of personal property on the condition of selling the same back again at a stipulated price. A Pawnbroker does not include any person operating under the supervision of the State Banking Commissioner, Credit Union Administrator or Consumer Credit Commissioner of the State of Kansas.
- (b) *Person* means any individual, firm, company, partnership, corporation or association.
- (c) *Precious metal* means gold, silver or platinum group metals or any used articles or other used personal property containing such metals, but shall not include coins purchased for their numismatic value rather than their metal content or ingots or other industrial residue or by-products composed of such metals purchased from manufacturing firms.
- (d) *Precious metal dealer* means any person who engages in the business of purchasing precious metal for the purpose of reselling such metal in any form.

3-1702. Licensure; application; fee.

- (a) No person shall engage or continue in business as a pawnbroker or precious metal dealer without first obtaining a license therefore from the City Clerk.
- (b) Each license shall be valid for the period terminating one year following the issuance of the license.

(c) Application for a license shall be in writing and shall state the full name and place of residence of the applicant. If the applicant is a partnership, the application shall contain the name and place of residence of each member thereof or, if a corporation or association, of each officer, shareholder or member thereof. The application shall include the address of the places where the business is to be conducted, the hours and days of the week during which the applicant proposes to engage in the business of pawnbroking or dealing in precious metals at each such place, and such other information as may be necessary to determine the applicant's qualifications for a license in accordance with the provisions of this article. Each applicant shall also submit with the application:

(1) A statement that the applicant is the holder of a valid registration certificate issued by the Director of Revenue of the State of Kansas pursuant to K.S.A. 79-3608 for each place of business for which application for a license is made.

(2) A detailed inventory and description of all goods, wares, merchandise, precious metals or other property held in pledge or for sale at the time of the application at each place of business stated therein, indicating whether the same was received in pledge, purchased as secondhand merchandise or precious metal purchased for resale.

(d) The initial and renewal license application shall be in a form approved by the Attorney General. Each initial and renewal application shall be accompanied by a fee as prescribed in section 1-310, which shall serve as the license fee for the period terminating one year following the issuance of the license. All such fees received by the City Clerk shall be deposited in the City's General Fund.

(e) The City Clerk shall approve, deny, or approve with conditions all license applications within fifteen (15) days of receiving a complete application.

(f) Any applicant dissatisfied by the action or decision of the City Clerk under this section shall have the right to appeal such action or decision to the City Commission within fifteen (15) days after the written decision of the City Clerk has been mailed to the applicant.

(g) An appeal to the City Commission shall be taken by filing with the city clerk a written statement setting forth the grounds for the appeal. An appeal shall be considered at the next City Commission meeting following the city clerk's receipt of the written appeal, but in no event more than fifteen (15) days after the city clerk's receipt of such written appeal. Notice of the time and place of the hearing shall be given to the applicant.

(h) The City Commission may affirm, overrule, or modify the decision of the City Clerk.

3-1703. Qualifications.

No license or renewal thereof shall be granted to:

- (a) Any person who is not a citizen of the United States.
- (b) Any person who has not been an actual resident of the State of Kansas for at least two (2) years immediately preceding the date of the application.
- (c) Any person who has been convicted of or who has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his or her bond to appear in court to answer charges for any such offense within the ten (10) years immediately prior to such person's application for a license.
- (d) Any person whose license has been revoked for cause under the provisions of this article or K.S.A. 16-706, et seq.
- (e) Any person is not at least twenty-one (21) years of age.
- (f) Any person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (g) Any person who does not own the premises for which a license is sought, unless he has a written lease therefore for at least three-fourths (3/4) of the period for which the license is to be issued.
- (h) Any person whose spouse would be ineligible to receive a license hereunder for any reason other than the age, citizenship and residence requirements.
- (i) Any partnership, unless each of the partners shall be eligible to receive a license as an individual.
- (j) A corporation, if any officer, manager, director or stockholder would be ineligible to receive a license as an individual.

3-1704. Transfer of stock by stockholder of corporate licensee; effect.

- (a) It shall be unlawful for any shareholder of a corporate licensee to transfer any stock in said corporation to any person who would be ineligible to receive a license as an individual, and any such transfer shall be null and void: *Provided*, That if any such stockholder of a corporate licensee shall become deceased, and his heirs or devisees to whom said stock descends by descent and distribution or by will shall be ineligible to receive a license hereunder, then the legal representatives of said deceased stockholder's estate, his heirs and devisees shall have fourteen (14) months from the date of the death of said stockholder within which to sell said stock to a person eligible to receive a license hereunder, with such sale to be made in accordance with the provisions of the probate code and any amendments thereto. If said legal representatives, heirs and devisees shall fail, refuse or neglect to so convey said stock within the time hereinbefore prescribed, then said stock shall revert to and become the property of the corporation, for which the corporation shall pay to said legal representatives, heirs or devisees the book value of such stock. If the stock in any

corporation shall be the subject of any trust heretofore or hereafter created, the trustee or trustees and the beneficiaries of each trustee and beneficiary of said trust who is twenty-one (21) years of age or older must be a person who would be eligible to receive a license, or the trustee shall be and is hereby authorized and required, within fourteen (14) months after the effective date of the trust, to sell said stock to a person eligible to receive a license under this act, and the trustee shall hold and disburse the proceeds thereof in accordance with the terms of the trust, or the license of the corporation shall be forfeited.

- (b) During the fourteen-month periods hereinbefore mentioned, a corporation shall not be denied a license or have its license revoked if it meets all of the other requirements necessary to have a license as provided in this act.

3-1705. Contents of license; display; license for each place of business.

The license of a pawnbroker or precious metal dealer shall state the address at which the business is to be conducted and shall state fully the name of the licensee. If the licensee is a partnership, the license shall state the names of the members thereof and, if a corporation, the date and place of its incorporation and the names of all shareholders thereof. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable. Not more than one place of business shall be maintained under the same license, but more than one (1) license may be issued to the same licensee upon compliance with all the provisions of this act governing the issuance of an initial license.

3-1706. Change in location of place of business; notice; duplicate license; restrictions.

Whenever a licensee shall change its place of business to another location within the corporate limits of the city, the licensee shall immediately give written notice thereof to the City Clerk. The City Clerk shall then issue a duplicate license which shall show, in addition to all the information appearing on the old license, a record of the change of location and the date thereof, which new license shall be authority for the operation of such business under such license at such location. The licensee shall return the old license to the City Clerk as soon as the new license has been received and the change in location has taken place.

3-1707. Examination of books, accounts, records.

Each licensee shall keep and use in the licensee's business such books, accounts and records as will enable the City Clerk or the Chief of Police to determine whether such licensee is complying with the provisions of this article. The City Clerk or the Chief of Police may examine or cause to be examined the books, accounts, records and files used by any licensee or by any other person engaged in the business of pawnbroking or dealing in precious metals, irrespective of whether such person acts or claims to act as principal, agent or broker, or under or without authority of this article. The City Clerk and the Chief of Police shall be given free access to all such books, accounts, papers, records, files, safes and vaults.

3-1708. Suspension or revocation of license; notice and hearing.

- (a) Any license issued under this article may be suspended or revoked, after due notice and public hearing, if the licensee:
 - (1) Has failed to pay the annual license fee.
 - (2) Has violated any provisions of this article or K.S.A. 16-706, et seq.
 - (3) Has been convicted of or pleaded guilty to a felony under the laws of this state, or any other state, or of the United States, or shall have forfeited his or her bond to appear in court to answer charges for any such offense, if such conviction or plea occurred subsequent to or within the ten (10) years immediately prior to the date of the licensee's application for the license.
- (b) Any license issued under this article shall be revoked, after due notice and hearing thereon, if it shall be proved at the hearing that the licensee sold any handgun to a minor.
- (c) Said hearing herein provided shall be held by the City Commission within thirty (30) days after notice thereof, and the alleged violation determined by written order of the City Manager within sixty (60) days after such hearing is concluded; but no revocation or suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

3-1709. Report of property pledged or purchased; required holding period for precious metal purchased; report not open to public inspection.

- (a) On or before Tuesday of each week, every pawnbroker or precious metal dealer shall report the description of all property received in pledge or purchased as a pawnbroker or precious metal dealer during the preceding calendar week, in whatever quantity received, and such report shall be made in writing to the Chief of Police, on such forms and in such format as the Chief of Police may prescribe. Such report shall include all property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale and secondhand merchandise taken in trade. No such report need be made concerning property or merchandise acquired from another pawnbroker or precious metal dealer licensed in this state in a transaction involving the purchase or other acquisition from the other pawnbroker or precious metal dealer of the other pawnbroker's or dealer's stock in trade, or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to such property or merchandise.
- (b) Every precious metal dealer shall retain in the dealer's possession for a period of ten (10) days all precious metal purchased as a precious metal dealer, and such metal shall remain in the condition in which it was purchased. The ten (10) day period shall commence on the date that the Chief of Police receives the report of its acquisition in compliance with this section. If the Chief of Police has probable cause to believe that any precious metal

reported by a dealer has been stolen, the Chief of Police may give written notice to the dealer to retain such metal for an additional period of fifteen (15) days. Upon such notice, the dealer shall retain such metal in an unaltered condition for an additional fifteen (15) day period unless the Chief of Police notifies the dealer in writing that the waiting period is terminated at an earlier time.

- (c) Reports made under this section shall be available for inspection only by law enforcement officers and county and district attorneys and their employees, for law enforcement purposes.

3-1710. Record of transactions.

- (a) At the time of making a loan, a pawnbroker shall enter in a book kept for that purpose:

- (1) The date, duration, amount and charges of every loan made by the pawnbroker.
- (2) A full and accurate description of the property pledged.
- (3) The name, age, residence and driver's license or other personal identification number of the pledgor.

- (b) At the time of purchasing precious metal, a precious metal dealer shall enter in a book kept for that purpose:

- (1) The date of the purchase.
- (2) A full and accurate description of each item purchased, including any identifying letters, numbers or marks on the item.
- (3) The name, age, residence and driver's license or other personal identification number of the seller.

- (c) The record required by this section shall be maintained by the pawnbroker or precious metal dealer at the pawnbroker's or dealer's place of business for not less than one (1) year following the date of the transaction.

3-1711. Minors; prohibited transactions.

- (a) No pawnbroker shall receive into pledge, or as security for any loan, transfer, service, undertaking or advantage, anything of value from any person under the age of eighteen (18) years.
- (b) No precious metal dealer shall purchase any precious metal from any person under the age of eighteen (18) years.

3-1712. Periodic inspections to determine compliance.

Law enforcement officers shall have access during regular business hours to the place of business of any pawnbroker or precious metal dealer conducting business within the city. Access shall be for the purpose of periodically inspecting property pledged or purchased in the transaction of the business of the pawnbroker or precious metal dealer, and records relating to those transactions, to determine if the pawnbroker or dealer is complying with the provisions of this article.

3-1713. Transactions in precious metals, requirements; refusal to redeliver stolen property to owner, effect.

A precious metal dealer shall require of every person from whom the dealer purchases precious metal for resale:

- (a) Proof of identification.
- (b) A signed statement saying that the seller is the legal owner of the precious metal or is an agent of the legal owner who is authorized to sell such metal and stating when, where and in what manner such metal was acquired by the seller.

SECTION 2. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

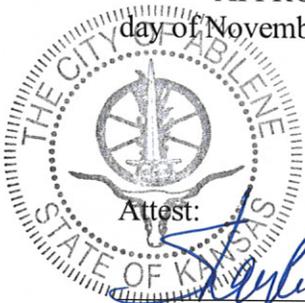
Ordinance No. 23-3439 Summary

On November 27, 2023, the City Commission passed Ordinance No. 23-3439. The ordinance amends Chapter 3 the City Code of the City of Abilene, Kansas by adding a new Article 17 pertaining to licensing and regulation of pawnbrokers and precious metal dealers in the City of Abilene, Kansas. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 27th day of November, 2023.



Trevor D. Witt, Mayor



Attest:



Shayla L. Mohr, CMC

The publication summary set forth above is certified this 27th day of November, 2023.



Aaron O. Martin, Legal Counsel