

**Sec. 7-97. Definitions.**

For the purpose of this article:

*Sec. 7-97(1).* In this article, the following terms shall have the meanings given in A.R.S. § 44-1621: Identification Document, Loan, Pawn Ticket, Pawn Transaction, Pawnbroker, Pawnshop, Pledged Goods, Pledgor, Reportable Transaction, And Transaction Date.

*Sec. 7-97(2).* *Jewelry* includes gold, platinum, silver, gold-filled or plated ware, diamonds and other precious or semiprecious stones whether mounted or unmounted, cultured pearls, and watches, clocks and goods, wares and merchandise commonly classified as jewelry and commonly offered for sale in jewelry stores.

*Sec. 7-97(3).* *Repeat pawn* means a reportable transaction where the transaction involves the same pledgor and the identical item(s) as a previous transaction, provided that the previous transaction occurred within the preceding twelve (12) months and was properly reported.

*Sec. 7-97(4).* *Secondhand dealer.*

(a) *Secondhand dealer* means every person engaged in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand goods, wares, merchandise or other articles, including:

(1) coins, gems or semiprecious stones, jewelry, precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for money, credit or exchange, digital video discs, and all goods and articles that bear a serial number or owner applied number regardless of value; and

(2) all secondhand goods, wares, merchandise, or other articles that have a fair market value in excess of one hundred dollars (\$100).

(b) The term defined in Paragraph (a) includes:

(1) every person engaged in the described business whether such business be the principal or sole business so carried on, managed or conducted, or be merely incidental to, in connection with or a branch or department of, some other business; and

(2) any person or entity that conducts such activities at a location that is not that person's or entity's actual business address, such as a hotel, meeting hall, convention center, or other short term leased or rented location.

(c) The term Secondhand Dealer does not include organizations that are recognized as not for profit under the laws of this state or any other state, Dealer to Dealer Transactions, or individuals or businesses conducting estate sales.

*Sec. 7-97(5). Transaction* includes only those items required to be reported pursuant to Sec. 7-98(b) but does not include compact discs, furniture, and books.

(1953 Code, ch. 19, § 1; Ord. No. 4716, § 2, 11-28-77; Ord. No. 9587, § 1, 8-6-01; Ord. No. 10254, § 2, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

**Sec. 7-98. Duty to report receipt of articles to police.**

(a) A pawnbroker shall make and deliver to the chief of police a true, complete, and accurate report of each article the pawnbroker receives through a reportable transaction, as provided by A.R.S. § 44-1625.

(b) It shall be unlawful for any secondhand dealer, or any employee or agent thereof, to fail, neglect, or refuse to deliver to the chief of police, within two (2) business days after the receipt thereof, a full, true, and complete report of the following enumerated goods, wares, merchandise, or other articles received at the secondhand or scrap metal dealer's place of business on deposit or by purchase, trade, consignment or otherwise where the total value of such goods wares, merchandise, or other articles exceeds fifty dollars (\$50.00):

- (1) Coins;
- (2) Gems or semiprecious stones;
- (3) Jewelry;
- (4) Precious metals purchased from any person other than the original manufacturer or authorized distributor selling the same for money, credit or exchange;
- (5) Digital video discs, expanded memory cards, and games;
- (6) Bicycles;
- (7) Golf clubs;
- (8). Ballistic vests, bullet-proof vests, and body armor;
- (9) Any good or article that bears a serial number or owner applied number; and
- (10) Collectable goods and articles that contain autographs, limited edition designations, or number sequences.

(c) Any good or article that has a fair market value in excess of one hundred dollars (\$100) shall be reported under Section 7-98(b) notwithstanding the fact that such good or article is not enumerated in the provisions of such Section. Transactions may not be split into smaller portions for the purpose of avoiding the reporting requirements of this Section.

(Ord. No. 1053 Code, ch. 19, § 2; Ord. No. 2819, § 1, 10-11-65; Ord. No. 4716, § 3, 11-28-77; Ord. No. 8176, § 1, 12-13-93; Ord. No. 9587, § 2, 8-6-01; Ord. No. 10254, § 3, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

**Sec. 7-99. Contents of report to police.**

The report required by section 7-98 include at least all of the following:

- (1) The last, first and middle name of the pledgor or seller;
- (2) The permanent address and telephone number, if applicable, of the pledgor or seller;
- (3) The physical description of the pledgor or seller including height, weight, hair and eye color, sex, race, date of birth, prominent scars and other distinguishing features;
- (4) The number and type of the identification document presented by the pledgor or seller;
- (5) An accurate, legible description of each item pledged or sold, including the manufacturer's name, model number, serial number, caliber, size, type of item and any owner applied number, inscription or monogram, and for scrap metals, the description and weight of the scrap metal received;
- (6) The pawnbroker's or secondhand dealer's name and address and the initials or identifying number of the employee who received the item;
- (7) The date and time of the initial pawn or purchase transaction;
- (8) The type of transaction and initial pawn ticket number;
- (9) The amount loaned or paid in the transaction;
- (10) A fingerprint of the pledgor or seller only as required by state law;
- (11) Whether the transaction is a repeat pawn as defined in this article, and if so, the date of the initial transaction within the preceding twelve (12) months and the name and address of the pawnbroker involved in that preceding transaction.

(1953 Code, ch. 19, § 3; Ord. No. 4716, § 4, 11-28-77; Ord. No. 9587, § 3, 8-6-01; Ord. No. 10254, § 4, 2-28-06; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

**Sec. 7-100. Form of reports; when due; imposition of fee.**

(a) All reports required by section 7-98 shall be written or printed entirely in the English language on forms provided by the Chief of Police in a clear and legible manner and shall be delivered to the chief of police by electronic means as approved by the chief of police. The fingerprint required by section 7-99 shall be affixed in the manner described on the form. All such reports shall be delivered within two (2) business days after the receipt of an item through a reportable transaction or Transaction. Such reports may be submitted to the Chief by electronic means as determined by the Chief.

(b) Each transaction report shall include no more than three (3) items. For the purposes of this subsection, multiple nonserialized items of the same type (e.g. rings) that are delivered in a single transaction and that have no owner assigned numbers, engravings, inscriptions, monograms or other unique identifying characteristics, may be considered as one item on the report (e.g. “six (6) silver rings”).

(c) Each Pawnbroker and Secondhand Dealer shall pay to the City a fee in the amount of one dollar (\$1.00) for each report required to be prepared pursuant to A.R.S. § 44-1625(A) and Section 7-98. This fee shall be due and payable to the City on the 20<sup>th</sup> day of April, July, October, and January and shall be based on the number of reports submitted to the City during each quarter.

(Ord. No. 4716, § 5, 11-28-77; Ord. No. 9587, § 4, 8-6-01; Ord. No. 10790, § 1, 5-18-10, eff. 7-1-10)

**Sec. 7-101. Requirements; record of transactions; police department hold on property.**

(a) Every secondhand dealer within the city shall keep a permanent record at his place of business, in which a complete record of all transactions required to be reported under this article shall be entered in the English language in a clear and legible manner and at the time when the transaction takes place. Such record shall contain all the information required to be reported to the chief of police under the provisions of sections [7-98](#) and [7-99](#) and shall be retained for no less than two (2) years from the date of the last entry.

(b) The record of transactions required by subsection (a) shall be available for inspection by the chief of police or his designated representative during normal business hours.

(c) Whenever there exists probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, or other person is stolen, a police officer or person so designated by the chief of police may place a hold on the property for a period up to

ninety (90) days. When a police officer or designee places a hold on the property, the police officer or designee shall initiate such hold by contacting the pawnbroker or secondhand dealer in person or by telephone and informing the pawnbroker or secondhand dealer of the hold and describing the item or items to be held. Within three (3) days of the initial contact, the police officer or designee shall deliver or mail to the pawnbroker or secondhand dealer a written notice of the hold. The written notice shall include a description of the item or items to be held.

(d) Whenever property that is in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is required by a police officer in a criminal investigation or for use as evidence in a criminal proceeding, the pawnbroker, secondhand dealer, or other person upon reasonable notice, shall deliver the property to any police officer.

(e) The police department may extend a hold placed pursuant to this section for the purpose of criminal investigation or for use in any judicial proceeding, including that set forth in this article. Any extended hold shall be no longer than is reasonably necessary.

(f) Whenever property that is in the possession of a pawnbroker, secondhand dealer, or other person is subject to a hold and the property is no longer required for the purpose of criminal investigation or any criminal proceeding, and more than one person can reasonably be anticipated to make a claim for possession of the property, the police department may follow the procedures set forth in this article for disposition of the property within forty-five (45) days of the conclusion of the criminal investigation or criminal proceeding.

(g) Whenever property that is in the possession of the police department pursuant to the procedures set forth in this section is no longer required for the purpose of criminal investigation or for use as evidence in any criminal proceeding, the police department may follow the procedures set forth in this article for disposition of the property within forty-five (45) days of the conclusion of the criminal investigation or proceeding.

(Ord. No. 4716, § 6, 11-18-77; Ord. No. 8680, § 1, 4-22-96; Ord. No. 9587, § 5, 8-6-01)

#### **Sec. 7-102. Prohibited acts.**

(a) No pawnbroker, secondhand dealer, or any employee or agent thereof shall not:

(1) Receive any goods, wares, merchandise or other articles that are required to be reported by this article whether on deposit, in pawn or pledge, or by purchase or otherwise from any person under the age of eighteen (18) years, or from any person who is at the time intoxicated.

(2) Purchase or otherwise take any goods, wares, merchandise or other articles that are required to be reported by this article without first taking reasonable steps, including requiring the pledgor or seller to produce an identification document,

to ascertain that such goods, wares, merchandise or other articles are the property of the person offering to deposit, pawn, pledge or sell the same.

(3) Purchase or otherwise take any goods, wares, merchandise or other articles, knowing or having reason to know that such goods, wares, merchandise or other articles are stolen.

(4) Sell, trade, transfer, or dispose of any goods, wares, merchandise, or other articles that are required to be reported under this article until twenty (20) days after filing the report required by section 7-98. For the purposes of this section, the twenty (20) day retention period begins upon receipt of the electronic transmission of the transaction report, as approved by the Chief of Police.

(5) Sell, trade, transfer or dispose of any goods, wares, merchandise or other articles subject to a police department hold described by section [7-101](#) except pursuant to a court order, order of a hearing officer issued pursuant to this article, or upon receipt of a written authorization signed by any police officer.

(6) Purchase, receive, sell or transfer any item from which a manufacturer's serial number or model designator has been removed, altered or tampered with. These items shall be reported to the police department.

(7) Refuse to permit the chief of police or a designated representative to enter such business, during normal business hours, for the purpose of inspecting such goods or records.

(8) Fail to pay the Transaction fee required to be paid by § 7-100(c) at the time so required.

(b) No secondhand dealer may sell, trade, transfer, purchase, receive, or otherwise take or dispose of any goods, wares, merchandise or other articles that are required to be reported under this article without first obtaining the appropriate licenses from the Finance Department and paying the tax imposed by Section 19-85. In addition, all secondhand dealers and pawnbrokers shall attend any training required by the Chief of Police regarding the requirements under this Article. Each attendee shall be given a copy of this Article after completing such training and acknowledging receipt thereof.”

(c) In any transaction with a secondhand dealer, no pledgor or seller shall provide false information concerning the pledgor's or seller's: name, address, phone number or rightful ownership.

(Ord. No. 4716, § 7, 11-28-77; Ord. No. 8680, § 2, 4-22-96; Ord. No. 9587, § 6, 8-6-01; Ord. No. 10254, § 5, 2-28-06; Ord. No. 10790, § 2, 5-18-10, eff. 7-1-10)

**Sec. 7-103. Violations, penalties.**

Each violation of any provision of this article shall constitute a misdemeanor.

(Ord. No. 4716, § 8, 11-28-77; Ord. No. 9587, § 7, 8-6-01; Ord. No. 10254, § 6, 2-28-06)

**Sec. 7-104. Scope.**

Property which is in the possession of pawnbrokers, secondhand dealers, the police department or other person, and which has all of the characteristics set forth in section [7-105](#), below, shall be disposed of pursuant to this article.

(Ord. No. 8680, § 3, 4-22-96; Ord. No. 9587, § 8, 8-6-01)

**Sec. 7-105. Property included.**

- (a) The city has reason to believe that the property was stolen.
- (b) The police department has possession of the property or has placed a hold on the property as set forth in section [7-101](#).
- (c) No state court has before it a petition against a suspect alleged to have stolen the property.
- (d) Two (2) or more persons are known or believed to have made, or can reasonably be anticipated to make, a claim for possession of the property.
- (e) The city makes no claim to possession of the property.
- (f) The property will not be required to be retained for use as evidence in any legal proceeding other than the hearing under this article and the city police department has no other lawful reason for holding the property.

(Ord. No. 8680, § 4, 4-22-96; Ord. No. 9587, § 9, 8-6-01)

**Sec. 7-106. Initiation of petition.**

The police department shall file a petition with a hearing officer designated by the city manager to determine ownership of the property within forty-five (45) days of the conclusion of the criminal investigation or criminal proceedings involving the property. Such petition shall set forth the following:

- (1) The facts establishing compliance with section [7-105](#).
- (2) The name and address of each person described in section [7-105](#)(d).

(3) An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), the location where the property is currently being held, and the person from whom seized, if the property was in fact seized.

(Ord. No. 8680, § 5, 4-22-96)

**Sec. 7-107. Service of the petition; notice of hearing.**

(a) The police department shall serve the petition by personal service or by first class mail, postage prepaid, return receipt requested, upon all persons known to have an interest in the property, each person described and named in section [7-105](#)(d) and section [7-106](#)(b) above, and, in all cases, the person from whom the property was obtained or who currently possesses the property subject to the police department hold.

(b) A copy of sections [7-104](#) through [7-113](#) of this article shall be served with each petition.

(c) There shall be served with the petition a notice of hearing setting forth the date, time and place for the conduct of the hearing to determine the right of possession to the property. The hearing date shall not be sooner than twenty-five (25), nor more than forty-five (45), calendar days after the date of service of the petition and notice.

(d) Service shall be made to the last known address of all persons included in subsection (a) of this section.

(e) Service shall be complete upon receipt. If service is made by certified mail, the return receipt shall be prima facie evidence of service.

(f) Proof of service upon each potential claimant shall be delivered to the hearing officer.

(Ord. No. 8680, § 6, 4-22-96)

**Sec. 7-108. Claimant's rights.**

(a) Any person claiming an interest in the property shall be known as a respondent.

(b) A respondent or any other person claiming any ownership interest of any kind, or possessory right to the property shall have the right to appear at the hearing and to present any and all evidence in support of such person's claim to the property.

(c) Except as provided in section [7-110](#)(b) of this article, the failure of any person to appear at such Hearing shall constitute a waiver of any claim to the property by such person as against the city, and shall authorize the hearing officer to enter a ruling consistent therewith.

(Ord. No. 8680, § 7, 4-22-96)

**Sec. 7-109. Hearing officer.**

All petitions filed pursuant to this article shall be filed with and considered by a hearing officer appointed by the city manager.

(Ord. No. 8680, § 8, 4-22-96)

**Sec. 7-110. Conduct of hearing.**

(a) The hearing shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision of the hearing officer shall in all cases be based upon substantial and reliable evidence. All parties shall have the right to be represented by counsel, to present evidence and testimony in support of their position, and to cross-examine adverse witnesses. All witnesses shall be placed under oath before testifying.

(b) The burden of proof shall be by a preponderance of the evidence, and shall at all times be upon the person or persons challenging the possession of the party from whom the property was taken by the police department, even if the party from whom the property was taken does not appear at the hearing. If the property was not seized by the police department, the burden of proof shall at all times be upon the person or persons challenging the party who currently possesses the property subject to the hold.

(c) The hearing shall be recorded electronically or by other means.

(d) The decision of the hearing officer shall be issued within ten (10) calendar days of the close of the record. The decision shall be in writing, and shall be mailed postage prepaid to each respondent or claimant appearing. A copy of the decision shall also be sent to the city police department.

(e) The decision of the hearing officer shall be final upon issuance.

(Ord. No. 8680, § 9, 4-22-96)

**Sec. 7-111. Judicial review.**

(a) Any respondent or other party participating in the hearing who is aggrieved by the decision of the hearing officer may seek judicial review by way of special action to the superior court.

(b) A complaint seeking special action review shall be filed within thirty (30) days of a final decision by the hearing officer.

(Ord. No. 8680, § 10, 4-22-96)

**Sec. 7-112. Release of property.**

(a) Any person prevailing in a hearing or uncontested proceeding administered pursuant to this article shall be entitled to receive the property described in the petition after producing a copy of the decision in their favor and appropriate identification to the property's custodian.

(b) A receipt shall be signed evidencing delivery of the property to the person identified in subsection (a) of this section.

(c) Any person with custody of the property described in the petition who is presented with a copy of the hearing officer's decision and appropriate identification shall release the property to the prevailing party.

(Ord. No. 8680, § 11, 4-22-96)

**Sec. 7-113. Limited effect of hearing officer decision.**

Nothing in this article shall prevent any person from filing an action in a court of appropriate jurisdiction to establish ownership to the property.

(Ord. No. 8680, § 12, 4-22-96)

**Sec. 7-114. Provisions severable.**

If a provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Ord. No. 9587, § 10, 8-6-01)

**Sec. 7-115. Grounds for denial and revocation of license.**

(a) No license for a secondhand dealer shall be issued or renewed if the applicant or licensee:

- (1) Is not eighteen (18) years of age or older;
- (2) Made any false statement or failed to answer any question in the application;
- (3) While licensed under this article, has had such license revoked within the previous two (2) years;
- (4) Has been convicted or found responsible of a violation of this article within one (1) year immediately preceding the application.

(b) No license shall be issued or renewed if the location of the business is not in conformity with applicable zoning regulations.

(c) The director of finance shall revoke a license issued under this article when:

(1) The licensee is convicted of or found responsible for two (2) or more violations of this article committed within a one (1) year period;

(2) An employee of the licensee is convicted or found responsible for two (2) or more violations of this article committed within a one (1) year period. The licensee shall be notified in writing by the police department whenever an employee is cited for a violation of this article. Notice shall be given to the licensee within ten (10) days of the charge being filed. The provisions of this subsection regarding license suspension shall not apply in the absence of such notification;

(3) The applicant or licensee has made false or misleading statements of material fact in the application for the license required by this article, or has entered or given false information in any record or report required by this article to be kept or made by a licensee;

(4) The applicant or licensee has failed to report a transaction using forms required by this article and approved by the Chief of Police or has failed to pay the Transaction fee required to be paid by § 7-100(c) at the time so required.

**Sec. 7-116. Revocation hearing.**

(a) The director of finance, upon notification by the chief of police that grounds for revocation exist, shall file a written petition for revocation with the city court, requesting that a time and place be set for a hearing and specifying the grounds for revocation. Within five (5) days, the special limited magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the petition to revoke. The special limited magistrate shall notify the parties in the manner provided in this article and shall state the grounds relied upon for the proposed revocation. Should the licensee fail to appear at the hearing, a default judgment of revocation shall be entered. A record shall be kept of all proceedings, including proofs offered and a transcript of testimony. No license shall be revoked unless grounds therefore are established by a preponderance of the evidence as shown by the record of the hearing. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence with a record made by electronic tape recording or stenographic transcription. The Arizona Rules of Evidence shall apply. However, the special limited magistrate shall admit evidence over hearsay objections where the proffered evidence has substantial probative value and reliability. Copies of records and documents prepared in the ordinary course of business shall be admitted, but subject to challenge as to weight and authenticity. The special limited magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (b) of this section. Revocation of a license shall be effected by the special limited magistrate's signing of the written notice of the decision. Appeal of the decision of the special limited magistrate shall be by way of special action to this Superior Court on the record of the hearing. A licensee's right to do business under authority of the license shall terminate immediately upon giving or

mailing to the licensee a copy of a signed decision revoking the license; except that the revocation may be stayed by the superior court pending a timely appeal of the decision by special action. Such appeal must be filed within ten (10) days after the decision to revoke is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the revocation becomes final and the license is terminated.

(b) Notices required by this article may be served by certified mail to the licensee's attorney, to the licensee at the address as shown on the business license, or by personal service.

(c) Upon revocation of a license, all fees or taxes theretofore paid for or on account of any such license shall be deemed forfeited to the city.

## **OCCUPATIONAL LICENSE TAX PROVISIONS**

### ***Sec. 19-6. When taxes delinquent; penalty and interest applied.***

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(b) Annual license taxes shall become delinquent if not received by the tax collector within twenty (20) days after becoming due. The tax collector shall, on the day such tax becomes delinquent, add thereto a penalty in the amount equal of ten (10) percent of the amount owed. No license shall be issued by the tax collector until the delinquent license taxes and penalty have been paid in full.

### **DIVISION 6. TAX ON SECONDHAND DEALERS AND PAWNBROKERS.**

#### **Sec. 85. Tax imposed.**

(a) In General. Except as provided in Subsections (b) and (c), there is imposed on every Secondhand Dealer and Pawnbroker operating in fixed location in the City an occupational license tax in the amount of \$1000.

(b) Out of City Dealers.

(1) A Secondhand Dealer described in Subsection (b)(2) shall pay an occupational license tax as follows:

(A) If the Dealer conducts 1 or 2 shows in a calendar year, a tax of five hundred dollars (\$500.00).

(B) If the Dealer conducts 3 or more shows in a calendar year, a tax of one thousand dollars (\$1000).

(2) A Secondhand Dealer liable for the tax imposed by Subsection (b)(1) is one who:

(A) has not already paid the tax imposed by Subsection (a) in that year; and

(B) conducts business at a location that is not that person's or entity's actual business address, such as a hotel, meeting hall, convention center, or other short term leased or rented location.

(c) Exclusion. A Secondhand Dealer or Pawnbroker who has submitted less than 1000 reports to the Chief of Police, as required by § 7-98, in the calendar year prior to the date the tax imposed by Subsection (a) is due is exempt from the tax imposed by such Subsection. The Chief of Police shall transmit to the Director of Finance the names of all Secondhand Dealers and Pawnbrokers subject to such tax no later than January 15 of each year.

**Sec. 86. Due date of tax.**

The tax imposed by Section 85 is due and payable on March 1.

**Sec 87. Administration.**

The administration of this Division shall be governed by Division 5, Article II, and the regulations there under.