

City of Conway - new



City of Conway, Arkansas
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D. C.

AN ORDINANCE AMENDING TITLE 4 (PAWNSHOPS) OF THE CONWAY MUNICIPAL CODE; REPEALING ANY ORDINANCES IN CONFLICT; AND FOR OTHER PURPOSES

WHEREAS, the 87th General Assembly of the State of Arkansas, in its Act 390 of 2009, passed legislation concerning matters currently addressed by city ordinances; and

WHEREAS, the Mayor and City Council desire to amend Title 4 of the Conway Municipal Code in accordance with the power granted it by ARK. CODE ANN. § 14-54-101 et seq., ARK. CODE ANN § 17-44-102, and to reflect recent legislative changes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS, THAT:

SECTION 1. Chapter 4.76 Pawnshops shall be deleted in its entirety and replaced with the following:

CHAPTER 4.76 USED OR SECONDHAND GOODS

Sections

- 4.76.01 Pawnbrokers and dealers in secondhand goods - Definitions
- 4.76.02 Penalty
- 4.76.03 Records and reports – Secondhand goods
- 4.76.04 Duty to retain goods – Electronics with identifiable numbers or marks
- 4.76.05 Notification to police of altered serial numbers
- 4.76.06 Precious Metals
- 4.76.07 Exemptions
- 4.76.08 Records and reports – Precious metals
- 4.76.09 Duty to retain goods – Precious metals
- 4.76.10 Notification to police of altered goods
- 4.76.11 Scrap Metal Dealers - Records

4.76.01 Pawnbrokers and dealers in secondhand goods – Definitions:

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

Dealer in secondhand goods means any person who:

- A. Buys, sells or otherwise deals principally in used or secondhand goods; or
- B. Buys for resale any used or secondhand goods, whether or not as a principal vocation or business, and without regard to whether or not such person maintains a place of business for such purpose.

Dealer in secondhand goods does not include:

- A. a licensed retailer of new goods who shall, in the ordinary course of business, receive used or secondhand goods only as a "trade-in" or as part consideration for purchases of new goods;
- B. a person who sells or exchanges coins, tokens, metals, or goods of any other nature, if such activity is conducted as part of an approved exhibit at an approved convention held in a facility subject to the regulation of the advertising and promotion commission;

- C. a person who sells goods from a residence, as part of an estate sale, yard sale, garage sale, tag sale, or internet auction; or
- D. a person who markets goods from an established business that operates:
 - 1. on consignment;
 - 2. as part of an auction; or
 - 3. from a flea market or booth at same.

Flea market shall mean and include any group of five (5) or more unrelated persons selling tangible used or secondhand personal property or collectors' items to the public.

Goods mean any tangible chattel or personality capable of physical delivery, except furniture and motor vehicles. "Furniture" does not include radios, television sets, appliances or other items with mechanical, electrical or electronic works.

Pawnbroker means a person engaged in the business of lending money upon the security of goods deposited with it or left in pawn, with or without a fixed period of redemption, whether or not a fixed place of business is maintained for such purposes.

4.76.02 Penalty. The failure on the part of any owner or operator of a pawnshop, pawnbroker or dealer in secondhand goods, precious or scrap metals, his or her agent or any other person or entity subject to the provisions of this ordinance to comply with the provisions of this ordinance shall be deemed a violation. Upon conviction, the offender shall be punished by a fine of not more than one hundred dollars (\$100.00) for each separate offense. Each day an owner or operator of a pawnshop, pawnbroker or dealer in secondhand goods, precious or scrap metals, his or her agent or any other person or entity subject to the provisions of this ordinance fails to comply with a provision of this ordinance shall constitute a separate offense and shall be punished accordingly.

4.76.03 Records and reports – Secondhand goods

- A. Each and every owner or operator of a pawnshop, pawnbroker and dealer in secondhand goods doing business in the city shall:
 - 1. Keep a well-bound record book or register which shall contain a copy of every pawn ticket or contract or bill of sale issued by the pawnbroker or dealer in secondhand goods. The chief of police or his duly authorized agents shall be entitled to inspect the book or register at any reasonable time.
 - 2. Take a color photograph or digital image of any and all jewelry or precious metals that may be pawned or sold. Jewelry shall mean items of personal adornment and shall include, but not be limited to, any bracelet, brooch, charm, cuff link, earring, necklace, ring, tie bar or watch. Precious metals shall include items made from gold, silver or platinum. The photograph or digital image must:
 - a. be maintained in such a manner that the image can be readily matched, correlated, and cross-referenced with all other records of the transaction to which they relate;
 - b. be available to the chief of police, or the chief's designee, upon request; and
 - c. be kept or otherwise maintained for sixty (60) days after the date of the transaction, or the date the goods were received, whichever is later.
 - 3. Maintain an electronic inventory-tracking system which is capable of delivery and transmission of all statutorily-required information via computer to the entity designated by the Conway Police Department. Information required by such system shall include, but not be limited to, the following:
 - a. *Amount loaned.* The amount loaned against the article by the pawnbroker or paid for the article by a pawnbroker or dealer in secondhand goods.
 - b. *Ticket number.* The pawn ticket number or redemption number issued to the pawnor and assigned to and tagged onto the goods. All items must be identified with consecutively numbered tags generated by the inventory-tracking system.
 - c. *Article.* A description of the class of goods within which the pawned or purchased item belongs. Examples are: projector, camera, shoes, revolver, typewriter, watch, ring, television, etc. It shall not be necessary to give a detailed description of such item or goods.
 - d. *Description of article.* A concise description of the goods shall be given. In the case of all goods the size, color and descriptive characteristics most pertinent shall be entered.

Serial numbers of all appliances or mechanical, electrical, electronic or other manufactured goods shall be entered if such is available on said goods. Model or chassis numbers shall not be entered in lieu of a serial number unless there is no serial number. In the case of watches, the outside case number shall be sufficient if the watch is waterproof, but otherwise both the case number and movement number shall be given, if both are present.

- e. *Marks.* Any identifying marks, initials, monograms or personalized features shall be entered to further describe the goods.
- f. *Name of party pledging or selling.* The name of the person presenting the goods for pawn or for sale. The name entered shall be substantiated and verified by examination of the government-issued photo ID of the pawnor or seller.
- g. *Method of identification.* The number appearing on the government-issued photo ID of the person pawning or selling goods, used for identification under paragraph (vi) of this subsection.
- h. *Address.* The address of the person pawning or selling goods.
- i. *Description of person.* A description of the person pawning or selling goods indicating sex, race, date of birth, height and weight.

- B. The city of Conway, through the Conway Police Department, shall provide free, commercial grade software, together with periodic updates of such software, to affected pawnshops, pawnbrokers, and dealers in secondhand goods in order to facilitate compliance with this ordinance.

4.76.04 Duty to retain goods – Electronics with identifiable numbers or marks

No bond, security or goods of any kind whatsoever received on deposit, purchased or pledged to or by any dealer in secondhand goods shall be sold or permitted to be redeemed or removed from the place of business of such dealer in secondhand goods for a period of seven (7) days from the time of receiving same if said goods are electronic, or other manufactured goods with serial numbers, or other identifiable numbers or marks; pawnbrokers shall be governed by state law with regard to any such specific duties or requirements.

4.76.05 Notification to police of altered serial numbers

In the event any goods are pawned, pledged or sold, or tendered for pawn or sale to any pawnbroker or dealer in secondhand goods, which normally carry or have a serial number or numbers or means of identification which shall have been removed, mutilated, defaced or destroyed, such fact shall be immediately reported by the pawnbroker or dealer in secondhand goods to the chief of police or his duly authorized agent.

4.76.06 Precious metals - Definitions

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

Precious metal dealer means a person engaged in the business of buying precious metals, whether for cash or trade, and whether or not a fixed place of business is maintained for such purposes.

Precious metals means any form of gold, silver or platinum.

4.76.07 Exemptions

This division does not apply to:

- A. Financial institutions chartered under state or federal banking laws.
- B. Security firms duly licensed under federal or state law.
- C. Transactions between such institutions or firms and their customers.
- D. Transactions involving loose teeth.
- E. Purchase of coins except that when coins are purchased, the precious metal dealer must verify the seller's identification by taking down his name, address, government-issued photo ID and retain a complete description of the coins.

4.76.08 Records and reports – Precious metals

- A. Every person engaged in the business of buying precious metals, whether for cash or trade, shall:
1. Keep a well-bound record book or register which shall contain a copy of every bill of sale issued by the dealer. The chief of police or his duly authorized agent shall be entitled to inspect the book or register at any reasonable time.
 2. Take a color photograph or digital image of the goods received. The photograph or digital image must:
 - a. Be maintained in such a manner that the image can be readily matched, correlated, and cross-referenced with all other records of the transaction to which they relate;
 - b. Be available to the chief of police, or the chief's designee, upon request; and
 - c. Be kept or otherwise maintained for sixty (60) days after the date of the transaction, or the date the goods were received, whichever is later.
 3. Maintain an electronic inventory-tracking system which is capable of delivery and transmission of the following information via computer to the entity designated by the Conway Police Department. Information required by such system shall include, but not be limited to, the following:
 - a. *Amount paid.* In this column shall be entered the amount paid for the article or articles by a dealer in precious metals.
 - b. *Ticket number.* The tag or ticket number issued and assigned to and tagged onto the goods. All items purchased must be identified with consecutively numbered tags generated by the inventory-tracking system.
 - c. *Article.* A description of the class of goods within which the purchased items belong. Examples are coins, rings, silverware, etc.
 - d. *Description of article.* A concise description of the goods shall be given. In the case of all goods the size, color and descriptive characteristics most pertinent shall be entered. Serial numbers shall be entered if such is available on said goods. In the case of watches, the outside case number shall be sufficient if the watch is waterproof, but otherwise both the case number and movement number shall be given, if both are present.
 - e. *Marks.* Any identifying marks, initials, monograms, brand name or personalized features shall be entered to further describe the goods.
 - f. *Name of party selling.* The name of the person presenting the goods for sale. The name entered shall be substantiated and verified by examination of the government-issued photo ID of the seller
 - g. *Method of identification.* The number appearing on the government-issued photo ID of the person selling the articles.
 - h. *Address.* The address of the person selling goods.
 - i. *Description of person.* A description of the person selling goods, indicating sex, race, date of birth, height and weight.
- B. The city of Conway, through the Conway Police Department, shall provide free, commercial grade software, together with periodic updates of such software, to every person engaged in the business of buying precious metals, whether for cash or trade, in order to facilitate compliance with this ordinance.

4.76.09 Duty to retain goods – Precious metals

No precious metals of any kind whatsoever received by the dealer shall be sold or permitted to be removed from the place of business of the dealer for a period of seven (7) days from the time of receiving same. All such goods shall be retained in the original condition in which they were received during such period.

4.76.10 Notification to police of altered goods.

In the event any articles sold to any precious metal dealer have had the serial number or other means of identification removed, mutilated, defaced or destroyed or melted down, such fact shall be immediately reported by the dealer to the chief of police or his duly authorized agent.

4.76.11 Scrap metal dealers - Records

- A. Each and every dealer or purchaser of junk and scrap metals and materials doing business in the City of Conway shall maintain an electronic inventory-tracking system which is capable of delivery and transmission of all statutorily-required information via computer to the entity designated by the Conway Police Department.

B. The city of Conway, through the Conway Police Department, shall provide free, commercial grade software, together with periodic updates of such software, to affected dealers or purchasers of junk and scrap metals and materials in order to facilitate compliance with this ordinance and state law.

SECTION 2. That all ordinances in conflict herewith are repealed to the extent of the conflict.

SECTION 3. That this ordinance shall be in full force and effect on November 1st, 2010.

PASSED this 27th day of September, 2010.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer