

ORDINANCE NO. 2012-33

AN ORDINANCE REGULATING PAWNBROKERS AND OTHER DEALERS; PROVIDING FOR RECORDKEEPING REQUIREMENTS AS WELL AS REQUIREMENTS FOR PURCHASING, RECEIVING, AND ACCEPTING PROPERTY HEREIN DESCRIBED; AND PROVIDING A PENALTY FOR VIOLATION HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS:

CHAPTER 118. PAWNBROKERS AND OTHER DEALERS

118.01. Definitions.

The following words or phrases, whenever used in this article, shall be construed as defined in this section:

Chief of Police. The Chief of Police of the City of Stephenville, Texas, or his designated representative.

Crafted precious metal dealer. Any person who engages in the business of purchasing and selling crafted precious metal as defined in V.A.T.C. Occupations Code § 1956.051, excluding those exceptions found in §§ 1956.052 et seq., of such Code, as amended.

Metal recycling entity. Anyone, who, from a fixed location, engages in the business of utilizing machinery or equipment for the processing of or manufacturing of iron, steel, or nonferrous metallic scrap and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for smelting purposes.

Pawnbroker. Any person as defined in the Texas Pawnshop Act, V.A.T.C. Finance Code §§ 371.001 et seq., as amended.

Person. An individual, corporation, partnership, or other legal entity, or any of their employees or agents.

Secondhand dealer. Any person engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the person.

Secondhand metal dealer. A person who operates or maintains a scrap metal yard or other place in which used or previously purchased metal items or scrap metal is collected or kept for shipment, sale, or transfer.

118.02. Recordkeeping requirements.

- A. Except as otherwise herein provided, every person licensed or transacting any business as a crafted precious metal dealer, pawnbroker, secondhand dealer or secondhand metal dealer within the city limits shall, beginning sixty (60) days following the effective date of this ordinance, maintain an electronic inventory-tracking system and transmit all information required by this article via computer to the entity designated by the chief of police.

- B. The information required to be transmitted by this section for crafted precious metals dealers, pawnbrokers, and secondhand dealers must include:
1. The date and time of each transaction in which personal property is purchased, pledged, or received for the sum of \$25 or more (or other consideration equivalent to that amount).
 2. An accurate and detailed description of any and all property purchased or acquired during the regular course of business for the sum of \$25 or more (or other consideration equivalent to that amount), including any and all trademarks, identification numbers, serial numbers, model numbers, brand names, and other identifying marks.
 3. The actual price paid or the amount of money involved in each such transaction.
 4. The full name, address, telephone number, date of birth, driver's license number or state-issued identification card number of the person with whom each such purchase or transaction is consummated.
 5. A digital photograph of any item not bearing a unique serial number purchased or acquired for a sum of money more than \$50.
 6. Such other information as the chief of police may reasonably deem necessary to ensure compliance with the laws of the State of Texas and ordinances of the City of Stephenville.
- C. The information required to be transmitted by sub-section (b) of this section shall be transmitted within forty-eight (48) hours of the date and time a purchase or transaction is consummated.

118.03. Defenses.

This article shall not be applicable to:

- A. Automobile dealerships.
- B. The sale of aluminum cans.
- C. Charitable organizations.
- D. Used or secondhand clothing businesses.
- E. Used or secondhand furniture businesses.
- F. Antique dealers.
- G. Metal recycling entities.
- H. Second hand metal dealers.
- I. Farm equipment and utility vehicle dealerships;
- J. Used or secondhand book stores.

118.04. Government or utility property.

- A. It shall be unlawful for any person licensed or transacting any business as a crafted precious metal dealer, pawnbroker, or secondhand dealer within the city limits to purchase or receive any item of property on which words or markings appear indicating ownership of such item by the United States, the State of Texas, or any of its political subdivisions or agencies, or any public utility company, except where the person offering such item for sale or transfer provides: (1) written authorization from the governmental entity, agency, or utility to convey the item on behalf of the entity, agency, or utility; or, (2) a valid receipt from the governmental entity, agency, or utility evidencing such entity, agency, or utility has conveyed or relinquished ownership of the item.

- B. It shall not be a defense to prosecution under sub-section (a) of this section that an item of property contains no words or markings indicating ownership if the person who purchased or received the item knows or should reasonably be expected to know such item is owned by the United States, the State of Texas, or any of its political subdivisions or agencies, or any public utility company.

118.05. Acceptance of property sealed or unopened in its original packaging.

It shall be unlawful for any person licensed or transacting any business as a crafted precious metal dealer, pawnbroker, or secondhand dealer within the city limits to purchase or receive an item of property sealed or unopened in its original packaging unless the person conveying such item presents a receipt or proof of purchase for the item.

118.06. Acceptance of property inscribed with a company name.

It shall be unlawful for any person licensed or transacting any business as a crafted precious metal dealer, pawnbroker, or secondhand dealer within the city limits to purchase or receive an item of property bearing the name, initials, or logo of a business entity unless the person conveying such item provides at the time of conveyance a valid receipt indicating lawful ownership, a signed statement attesting to lawful ownership, or written authorization from the owner to convey the item on such owner's behalf.

118.07. Penalty

A violation of this ordinance shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed the maximum amount allowed by law.

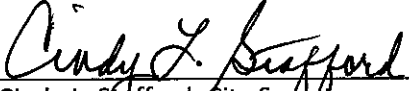
That if any provision, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of either such Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity of any other portion hereof, and all provisions of both such Ordinances are declared to be severable for that purpose.

That the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

PASSED AND APPROVED this 4th day of December, 2012.


Jerry K. Wedon II, Mayor

ATTEST:


Cindy L. Stafford, City Secretary


Reviewed by Mark A. Kaiser,
City Administrator


Randy Thomas, City Attorney