

The City Council has adopted additional regulations for secondhand dealers, dealers in precious metals and gems, and pawnbrokers by creating a required licensing scheme in order to make sure such businesses are operating within the boundaries of the law and to assist the Elberton Police Department in locating stolen property which may have been inadvertently acquired by secondhand dealers.

Please complete the attached Secondhand Dealer Permit Application and a signed copy of page 9 of the Acknowledgement form. Information can be submitted by mail, fax, email or hand delivery to:

City of Elberton  
City Clerk  
PO Box 70  
203 Elbert Street  
Elberton, GA 30635  
Fax: 706-213-3125  
Email: [cchurney@cityofelberton.net](mailto:cchurney@cityofelberton.net)  
Office Hours: 8 a.m. – 5 p. m., Monday - Friday

If you have any questions concerning this matter, please contact the Elberton Police Department at 706-213-3130 or the City Clerk at 706-213-3105.

# Secondhand Dealer Permit Application



City of Elberton  
PO Box 70  
203 ELBERT ST  
ELBERTON, GA 30635

## Secondhand Dealer Permit Application

### **Applicant Information**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ Middle Name: \_\_\_\_\_

Aliases/Stage Names (in the last 10 years): \_\_\_\_\_

Social Security #: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Are you 18 years of age or older?  Yes  No

Sex:  Male  Female Race: \_\_\_\_\_

Driver's License #: \_\_\_\_\_ State Issued: \_\_\_\_\_

Are you seeking to operate as a Pawnbroker?  Yes  No

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Mobile/Cell Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Please list any additional legal addresses for the past five (5) years:

(1): \_\_\_\_\_

(2): \_\_\_\_\_

(3): \_\_\_\_\_

(4): \_\_\_\_\_

Have you been convicted of or pled guilty to, in a court of competent jurisdiction, any felony, any crime involving theft or fraud, or any crime against property within the last ten (10) years?

Yes  No

A pleading of nolo contendere shall be considered as a conviction for the purposes of this provision.

*Please note that any applicant that has been convicted, pled guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within the past ten years will be denied.*

### **Employment History Information (Within the past 10 years)**

*Use additional pages if necessary*

Current Business of Employment: \_\_\_\_\_

Job Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

Are the premises owned or rented? \_\_\_\_\_

Phone: \_\_\_\_\_ Length of Employment: \_\_\_\_\_

Previous Employer Name, Address, Phone: \_\_\_\_\_

\_\_\_\_\_

Previous Employer Name, Address, Phone: \_\_\_\_\_

\_\_\_\_\_

Previous Employer Name, Address, Phone: \_\_\_\_\_

\_\_\_\_\_

**Secondhand Dealer Permit History Information**

*List any previous permits in this or any other City, State, or Territory*

Have you ever had any such permit revoked or suspended?  Yes  No

If so, why? \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**Additional Information**

1. Does the applicant have any ownership or interest in this or any secondhand dealership or pawnshop, whether it is located locally or out-of-state?  Yes  No

If yes, please list the nature of such ownership interest: \_\_\_\_\_

\_\_\_\_\_

2. What is the nature and character of the business to be conducted? \_\_\_\_\_

\_\_\_\_\_

**Corporation, Limited Liability, Partnership Information**

*Please attach required documentation listed below*

Are you doing business under a trade name?  Yes  No

*If the applicant is doing business under a trade name, a copy of the trade name, properly recorded, must be provided. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name and the last annual report, if any, must be provided.*

The applicant corporation(s), limited liability company(s) or partnership(s) shall designate one of its officers, members or general partners to act as its responsible managing officer. Such designated applicants shall complete and sign all application forms required of an individual owner under this Article, but only one application fee shall be charged. No secondhand dealership shall operate under any name other than the name of the applicant and the name of the business as specified on the permit.

**Corporation:** If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with place and date of incorporation, and the names and addresses of each of its current officers and directors.

If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.

**Limited Liability Company:** If the applicant is a limited liability company, the application shall set forth the name, residence, address and dates of birth of the members, and it shall furnish a copy of its certificate filed with the Secretary of State.

**Partnership:** If the applicant is a partnership, the application shall set forth the name, residence, address and dates of birth of the partners.

**Limited Partnership:** If the applicant is a limited partnership, it shall furnish a copy of its certificate filed with the Secretary of State.

I \_\_\_\_\_ hereby agree that as a condition to the issuance of a Secondhand Dealer Permit, the applicant shall indemnify and hold the City harmless from claims, demand or cause of action which may arise from activities associated with the permit.

I hereby solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a Secondhand Dealer Permit, are true, and no false or fraudulent statement or answer is made herein to procure the granting of such permit.

I hereby state and understand that any conviction for violation of the provisions of the City of Elberton's Code of Ordinances, Chap 10. Businesses or the State of Georgia's Code, shall result in the automatic suspension of the Secondhand Dealer Permit. Furthermore, the Chief of Police may revoke said Secondhand Dealer Permit and demand its return if the applicant adversely affects the public health, safety, or welfare.

I hereby solemnly swear that there are no fees, taxes, fines or other charges due to the City of Elberton.

I hereby understand that it shall be unlawful for an applicant whose Secondhand Dealer Permit has been revoked and upon whom demand for return of the card has been made to refuse to return the card or to alter, conceal, deface, or destroy the card.

Applicant's Signature: \_\_\_\_\_

Sworn and Attested before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Signature and Seal: \_\_\_\_\_

**O.C.G.A. § 50-36-1(e)(2) Affidavit Verifying Status for City Public Benefit**

**\*\*This form is required for ALL LICENSES/PERMITS by State Law\*\***

By executing this affidavit under oath, as an applicant for a secondhand dealer permit, as referenced in O.C.G.A. § 50-36-1, from the City of Elberton, Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) \_\_\_\_\_ I am a United States citizen  
(Must include copy of either current State Driver's License, Passport, or Military ID)
  
- 2) \_\_\_\_\_ I am a legal permanent resident of the United States\*\*  
(Must include a copy of your current State Driver's License and either a copy of your Permanent Resident Card or Employment Authorization Card)
  
- 3) \_\_\_\_\_ I am a qualified alien or non-immigrant under the Federal Immigration \_\_\_\_\_ and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.\*\*  
(Must include a copy of your current State Driver's License and either a copy of your Permanent Resident Card or Employment Authorization Card)

\*\*My alien number issued by the Department of Homeland Security or other federal immigration agency is: \_\_\_\_\_.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

\_\_\_\_\_  
In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in \_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Applicant

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC/SEAL

My Commission Expires: \_\_\_\_\_

## Background Check Consent Form

**\*\*Do Not Issue Permit\*\***

I authorize the City of Elberton Police Department to receive any criminal history record information pertaining to me, which may be in the files of any federal, state, and/or city criminal justice agency in Georgia.

Print Full Name: \_\_\_\_\_

Maiden Name/Previous Name/Alias Info: \_\_\_\_\_

Date: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Driver's License No: \_\_\_\_\_ DL State: \_\_\_\_\_

**Are you a U.S. Citizen?** Yes \_\_\_\_\_ No \_\_\_\_\_

**If no, you will need to have your Green Card available.** Country of Birth: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Social Sec#: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

**Signature of Applicant:** \_\_\_\_\_

Employee Completing: \_\_\_\_\_ Date Complete: \_\_\_\_\_

Record Attached: \_\_\_\_\_ No Record: \_\_\_\_\_

## **Secondhand Dealers, Dealers in Precious Metals and Gems, and Pawnbrokers Acknowledgement**

The City Council desires to include additional regulations for secondhand dealerships by creating a required licensing scheme in order to make sure such businesses are operating within the boundaries of the law and to assist the Police Department in locating stolen property which may have been inadvertently acquired by secondhand dealers.

Article VIII (Pawnbrokers) of Chapter 10 (Businesses) of the Code of the City of Elberton, Georgia is hereby amended by deleting that article in its entirety and replacing in lieu thereof the following Article VIII, to read as follows:

### **ARTICLE VIII. SECONDHAND DEALERS, DEALERS IN PRECIOUS METALS AND GEMS, AND PAWNBROKERS**

#### **Sec. 10-231. Penalty.**

Any person violating any of the provisions of this Article shall be punished as provided in Section 1-9 of this Code.

#### **Sec. 10-232. 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:

*Accepted identification* means an official document, most commonly in the form of a plastic coated/sealed card, issued for purposes of identification or driver's license. These documents must be issued by one of the 50 states or a branch of the U.S. military, i.e. Army, Navy, Air Force, Marines, Coast Guard, or current State of Georgia and counties of Georgia probation and parole cards. The identification must at a minimum bear a true photograph of the person presenting it, date of birth, description of the person, and an address for the person.

*Acquire* means to purchase, exchange, transfer, collect, or otherwise obtain physical possession of regulated secondhand items from another person or entity not licensed as a secondhand dealer.

*Dealer in precious metals and gems* means:

- (1) Any person engaged in the business of purchasing precious metals or gems or goods made from precious metals or gems from persons or sources other than manufacturers, manufacturers' representatives, or other dealers in precious metals or gems; or
- (2) Any person engaged in any other business if, in conjunction with such business, precious metals or gems or goods made from precious metals or gems are purchased from persons or sources other than manufacturers, manufacturers' representatives, or other dealers in precious metals or gems where such purchase is for resale in its original form or as changed by remounting, melting, re-forming, remolding, or recasting or for resale as scrap or in bulk.

*Deceptive business practice* means:

- (1) Any use or possession of a false weight or measurement, or any other device for falsely determining or recording any quality or quantity in connection with any scale or service;
- (2) Any sale of, offer to sell or delivery of less than the represented quality or quantity;
- (3) Any attempts to take more than the represented quantity of any commodity, when as buyer or broker, such person furnishes the weight or measure;

(4) Any service which is of an unreasonably lesser quality than the service offered or represented;

(5) Any other practice designated as unlawful by O.C.G.A. section 10-1-300, et. seq.;

(6) Any other fraudulent business transaction which is made punishable by the laws of the State of Georgia.

*Employee* means any person who works for a secondhand dealer, whether on a part-time or full-time basis, regardless of whether remuneration is received or not, and regardless of whether such person is treated as a W-2 employee or a Form 1099 contractor.

*Gems* means any precious or semiprecious stone which is cut and polished.

*Interest in a secondhand dealership* means any full or part ownership if the person involved, or any member of his or her family, is the outright owner of the secondhand dealership; a co-owner of the secondhand dealership; a stockholder in any corporation organized for pecuniary gain which owns all or part of the secondhand dealership; a stockholder, member, partner or individual with an ownership interest in any corporation, partnership, limited liability company or other legal entity organized for pecuniary gain which owns all or any part of the secondhand dealership.

*Minor* means any person who has not attained the age of 18 years.

*Numismatic coins* means coins whose value as collectors' items exceeds the value of the content of the precious metals in the coins.

*Occupation tax certificate* means permission to operate a business pursuant to Chapter 10, Article II of the Code of the City of Elberton, Georgia.

*Pawnbroker* means any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described in this paragraph.

*Pawnshop* means the physical location at which a pawnbroker is licensed to operate.

*Pawn transaction* means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods may be redeemed or repurchased by the pledgor or seller for a fixed price within a fixed period of time

*Permit* means permission to be employed or work in a secondhand dealership or to be a secondhand dealer.

*Person* means an individual, partnership, limited liability company, corporation, joint venture, trust, association, or any other legal entity however organized.

*Pledged goods* means tangible personal property, including, without limitation, all types of motor vehicles or any motor vehicle certificate of title, which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction. However, for purposes of this Code section, possession of any motor vehicle certificate of title which has come into the possession of a pawnbroker through a pawn transaction made in accordance with law shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker shall retain physical possession of the motor vehicle certificate of title for the entire length of the pawn transaction but shall not be required in any way to retain physical possession of the motor vehicle at any time. "Pledged goods" shall not include securities, or printed evidences of indebtedness.

*Precious metals* means gold, silver, or platinum or any alloy containing gold, silver, or platinum.

*Regulated secondhand items* means the following goods:

- (1) Precious metal or gems;
- (2) Goods made from precious metals or gems;
- (3) Pledged goods; or
- (4) Tangible property acquired by a pawnbroker.

*Secondhand dealer* means any person whose business, in whole or in part, is dealing in acquiring, purchasing, selling, or trading regulated secondhand items, and such term expressly includes dealers in precious metals and gems and pawnbrokers.

*Secondhand dealership* means the physical location at which a secondhand dealer is licensed to operate, and such term expressly includes pawnshops.

*Seller* means the person from whom a secondhand dealer or employee acquired secondhand items or the person from whom a pawnbroker acquired pledged goods.

**Sec. 10-233. Annual permit required; other violations**

No person shall acquire any regulated secondhand items or transfer any previously acquired regulated secondhand items as a secondhand dealer, or become an employee of a secondhand dealer, without a permit. It shall be unlawful for any secondhand dealer or employee to:

- (1) Make any false statement in an application for a permit required by this Article; or
- (2) Make any false entry in any record book, ledger or form required by this Article.

**Sec. 10-234. Exempt Transactions**

The following transactions are exempt from the provisions of this Article:

- (1) Transactions in which a non-profit entity, exempt from federal income tax pursuant to 26 U.S.C. Sections 501(c), 501(d), or 501(e), is a party;
- (2) Transactions occurring at one-day auctions and/or permitted yard sales, unless a dealer in precious metals or gems or pawnbroker is a party to such transaction;
- (3) Transactions occurring at a licensed antique store whose course of business is dealing mainly in antiques only and are not operating as a pawnbroker or dealer in precious metals, gems, and/or firearms; and
- (4) Transactions involving numismatic coins, unless a pawnbroker is a party to such transaction.

**Sec. 10-235. Fixed physical location**

No secondhand dealer or employee may operate except at a fixed permanent physical business location with an occupation tax certificate from the City. No secondhand dealer or employee may operate as a peddler or transient merchant. Permits acquired under this Article are valid only for the location stated on the permit and said permit is not transferable from one location to another.

**Sec. 10-236. Secondhand dealer and employee permits**

(a) Qualifications. All secondhand dealers and employees, as defined herein, shall be not less than 18 years of age. Any person who has been convicted of or pled guilty to any felony, any crime involving theft or fraud, or any crime against property under the laws of this state, any other state of the

United States, or any federal law shall not be eligible for a secondhand dealer or employee permit under this Article until ten (10) years after the completion by said person of the subject sentence. No convicted felon may have possession or come in contact with any firearm pursuant to OCGA: 16-11-131 regardless of the time from the date of conviction.

(b) Disclosure. Every secondhand dealer and employee must disclose any ownership or interest in any other secondhand dealership, including any other pawnshop(s), whether it is located locally or out-of-state and must disclose the nature of such ownership or interest.

(c) Approval of employment. Before any person may work on the premises of a secondhand dealership, he shall file an application with the City Clerk setting out the information required in subsections (a) and (b) of this Section and submit an application fee as approved from time to time by the City Council. Each applicant must be fingerprinted by the Elberton Police Department. The City shall have 45 days to investigate the information submitted by the applicant. If the application information conforms to the requirement of this Article, the City shall approve the applicant for a permit authorizing the person to be employed at a secondhand dealership. Upon such approval, the applicant may begin working on the regulated premises. It shall be the duty of the secondhand dealer to assure compliance with the provisions of this Section. Every permit holder is required to notify the City of any change in information or circumstances which occurs after the original approval was granted. If approval is denied, the applicant may, within fifteen (15) days of the denial, appeal in writing to the City Manager for reconsideration pursuant to the provisions of this Article.

(d) Suspension, revocation of the occupation tax certificate or permit. Conviction of violating the provisions of this Article or any other ordinance of the City, rules or regulations of the City, or conviction of any felony or any crime involving theft, fraud or a crime against property shall subject the employee to suspension or revocation of the permit, and in the case of an owner or secondhand dealer, shall subject the party to suspension or revocation of any permit authorized under this Article and the occupation tax certificate for the secondhand dealership. Suspension and revocation procedures shall be in accordance with the rules and regulations established by this Article.

(e) Independent contractors. For the purpose of this Article, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or occupation tax certificate holder of any secondhand dealership.

**Sec. 10-237. Application for permit.**

(a) Any person, including any association, partnership, limited liability company, corporation, trust, joint venture or other legal entity, desiring to obtain a permit to operate as a secondhand dealer as required by this Article shall make application to the City through its designated representative. Additionally, if such person desires to operate as a pawnbroker, they must specifically provide for same in such application.

(b) Each application for a permit to operate as a secondhand dealer or as an employee for a secondhand dealer shall contain the following information:

- (1) The applicant's full true and legal name(s) and any other aliases or name changes used in the last ten (10) years.
- (2) The present address and telephone number of the applicant.
- (3) Acceptable written proof that the individual applicant is at least 18 years of age.
- (4) Business, occupation or employment history of the applicant for the ten (10) years immediately preceding the date of the application.
- (5) The secondhand dealer permit history of the applicant, including any other permits authorizing such applicant to operate as a dealer in precious metals or gems or as a pawnbroker, and whether, in previous operations in this or any other City, state or territory, the applicant has had such permit revoked or suspended. If such permit has been revoked or suspended, the applicant must state the reason, and the business activity or occupation subsequent to such action of suspension or revocation.

- (6) Whether the applicant is seeking to operate as a pawnbroker.
- (7) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with place and date of incorporation, and the names and addresses of each of its current officers and directors. If the applicant is a limited liability company, the application shall set forth the name, residence, address and dates of birth of the members, and it shall furnish a copy of its certificate filed with the Secretary of State. If the applicant is a partnership, the application shall set forth the name, residence, address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation(s), limited liability company(s) or partnership(s) shall designate one of its officers, members or general partners to act as its responsible managing officer. Such designated applicants shall complete and sign all application forms required of an individual owner under this Article, but only one application fee shall be charged. No secondhand dealership shall operate under any name other than the name of the applicant and the name of the business as specified on the permit.
- (8) Whether the applicant has been convicted of or pled guilty to, in a court of competent jurisdiction, any felony, any crime involving theft or fraud, or any crime against property within the last ten (10) years. A pleading of nolo contendere shall be considered as a conviction for the purposes of this provision.
- (9) If the applicant is doing business under a trade name, a copy of the trade name, properly recorded, must be provided. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name and the last annual report, if any, must be provided.
- (10) Address of secondhand dealership to be regulated.
- (11) Whether the premises are owned or rented.
- (12) Nature and character of the business to be conducted, including whether the applicant intends to operate as a dealer in precious metal and gems or as a pawnbroker.
- (13) Each application for a secondhand dealership or employee permit shall be verified and acknowledged under oath to be true and correct by the applicant and all ownership if for a secondhand dealership permit.
- (14) Any ownership interest in any other secondhand dealership or pawnshop, whether it is located locally or out-of-state and the nature of such ownership interest.
- (15) Statement that there are no fees, taxes, fines, utilities or other charges due to the City from the applicant.
- (16) Any other information that may be required by the City, including any information required by State law, including, but not limited to, the source of financing for the business operation and proof of legal residence.

(c) Proof of an existing and valid occupation tax certificate from the City for the location of the proposed secondhand dealership, if not applied for concurrently.

(d) The City shall have 45 days to investigate the application and background of the applicant.

(e) Upon completion of the review of the application by the City, the permit shall be granted by the City Manager or designee if the application conforms to all the requirements of this Article. If the application does not conform to all the requirements of this Article, the City Manager or designee shall deny said application by sending a written denial to the applicant(s) by certified mail, return receipt requested, stating the reasons for same and informing the applicant(s) of their right to appeal said denial within thirty (30) days of the denial letter pursuant to the terms of this Article.

**Sec. 10-238. Reasons for denial, suspension or revocation of the permit.**

The City Manager or designee may reject an application for a permit, or suspend or revoke a permit for the following reasons:

- (1) The required fees or taxes have not been paid.
- (2) The secondhand dealership is, or will be, located within 500 feet, front door to front door, by the shortest walking route, of another secondhand dealership.

- (3) Application does not conform to all the provisions required by the Article.
- (4) The owner/employee has failed to fully cooperate with the investigation required by this Article.
- (5) Any owner/employee has had any license or occupation tax certificate issued under the police powers of any county, municipality, or other governmental subdivision involuntarily suspended or revoked within the last ten (10) years for any reason whatsoever.
- (6) The owner/employee, as a previous holder of a license or occupation tax certificate to operate a secondhand dealership has violated any law, regulation or ordinance relating to the business within a ten (10) year period immediately preceding the date of the application.
- (7) Any owner/employee has been convicted of or pled guilty to, in a court of competent jurisdiction, any felony, any crime involving theft or fraud, or any crime against property within the last ten (10) years. A pleading of nolo contendere shall be considered as a conviction for the purposes of this provision.
- (8) Any owner/employee has engaged in any deceptive business practice.
- (9) Any owner/employee is less than 18 years of age.
- (10) Any owner/employee has failed to obtain any paper or document necessary in pursuance of this business or this application as may be required by any officer, agency or department of the City, County, State or United States under authority of any law, ordinance or resolution of the City, State or United States or has failed to be properly eligible for legal residence in this State or the United States.
- (11) Any owner/employee has made any false statements in the application.
- (12) The applicant or holder of the permit has violated any provisions of this Article.

**Sec. 10-239. Renewal of permits.**

Permits for secondhand dealers and employees may be renewed on a calendar year basis provided that the applicants continue to meet the requirements set out in this Article. Each secondhand dealer must file a verified annual report showing the person's gross receipts from the business and the amounts paid to the employees for the preceding calendar year and such shall be submitted with the renewal applications. Renewal applications shall be submitted by January 1 of the year for which such permit is requested along with a fee to be set by Resolution of the City Council.

**Sec. 10-240. Permit nontransferable.**

No secondhand dealer or employee permit may be sold, transferred or assigned to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void; provided and excepting, however, that if the permit holder is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without affecting a surrender or termination of such permit, and in such case, the permit upon notification to the City shall be placed in the name of the surviving partner(s).

**Sec. 10-241. Recordkeeping.**

(a) *Contents of record book.* All secondhand dealers shall keep a book wherein shall be entered an accurate description of all regulated secondhand items, as specified in section 10-56.2., acquired by the secondhand dealer, including, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks and numbers, and the name, address, and date of birth of the person from whom purchased or acquired and the date and hour of the purchase. These entries shall be made as soon as possible after the transaction is had, in no case more than one hour thereafter.

(b) The secondhand dealer shall require all sellers to show proper identification prior to acquiring any regulated secondhand item. Proper identification is defined as a government-issued photo identification card such as a driver's license, military identification card, state identification card, or passport. The secondhand dealer shall make a digital photograph of the identification and maintain in the same manner as other digital photographs required under this section.

(c) A digital photograph shall be made by the secondhand dealer or employee at the time of acquisition of any regulated secondhand item of the item and the item's serial number, which number shall be clearly visible and

readable in the photograph if imprinted on the item. If the item was never imprinted with any type of serial number, then the photograph shall show the entire item. All such digital photographs shall be submitted to the reporting system as indicated below. Further, a digital photograph of the seller's face, similar to those on accepted identification, shall be made at the time of each and every acquisition and submitted to the reporting system. The photograph shall clearly show a frontal view of the seller's face along with the secondhand dealer's receipt and/or, if the secondhand dealer is a pawnbroker, the pawn ticket number. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.

(d) The secondhand dealer shall obtain from each seller the fingerprint of the right hand index finger, unless such finger is missing, in which the event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the seller. The fingerprint must be clear and legible. In the event that more than one transaction form is required, a fingerprint and signature shall be obtained for each form. Fingerprints and the information required herein shall be obtained upon each occasion of acquisition.

(e) *Inspection.* The secondhand dealer shall store the above records, digital images, and fingerprints for a period of four (4) years, and make them available for inspection and examination by the police department upon request.

(f) Every secondhand dealership shall enter each transaction as it occurs into the electronic automated reporting system via the internet to the administrator of the electronic automated reporting system, who will, in turn, electronically transmit all transactions to the Elberton Police Department.

**Sec. 10-242. Entries to be numbered serially; property to be tagged.**

Every entry required to be made in the secondhand dealer's book required by Section 10-241. shall be numbered serially, and the property described in the entry shall have attached to it a tag bearing the same serial number until the property is disposed of by sale, trade or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale distributor businesses for the purpose of retail sales; however, the secondhand dealer shall be required to maintain all purchasing records for property exempted from this paragraph.

**Sec. 10-243. Acquiring articles with serial number mutilated or altered.**

It shall be unlawful for any secondhand dealer to purchase or acquire any watch, clock, pistol, gun, automobile tire or battery or any other article commonly branded with a serial number upon which the number has been mutilated, altered, or removed.

**Sec. 10-244. Daily reports to police; form and contents.**

Every secondhand dealer identified in this Article shall make a daily report in such form as may be prescribed by the chief of police, which may be electronic, of all property purchased or acquired by the dealer during the 24 hours ending at 12:00 midnight on the date of the report. The reports shall be made as follows:

(1) Daily reports shall list all regulated secondhand items acquired, the transaction number for each transaction, and a description of the regulated secondhand items including, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and any other identifying names, marks and numbers. The daily report shall also list the name, address, race, sex, height, weight, driver's license number, and date of birth of the seller of the items, along with the date and time of the transaction. Unless otherwise provided, an electronic automated reporting system shall be utilized to transmit said reports. The secondhand dealer shall be required to register with the designated system within one week of receipt of a permit under this Article:

(2) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, or has not been employed, secondhand dealerships will be notified as soon as possible. Secondhand dealerships that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting should notify the Police Department forthwith with the reason for the failure. In this

event, the secondhand dealers will be required to make records of transactions on paper forms. A digital camera will be used to collect the required pictures and transferred to a CD or similar effective media for submittal, and a fingerprint ink pad will be used to collect fingerprints. The paper forms must include information as enumerated in this Article. Secondhand dealers shall maintain a minimum three-day supply of these paper forms. On a daily basis, all transactions not reported in electronic automated reporting system, will be delivered to the Police Department by the secondhand dealer within two (2) hours of the end of the business day for every day until the event has been corrected or electronic automated reporting system designated.

(3) Fees. The daily electronic reporting shall be by an electronic reporting system required by the Chief of Police with the approval of the City Manager and any fee for use of same may be collected by the third party administrator of the automated reporting system, pursuant to the requirements of the City. Any fees required and collected by the City will be used to offset the costs to the City to regulate and monitor these businesses.

**Sec. 10-245. Examination and inspection of articles by police; segregation of suspicious articles.**

All property purchased or acquired by a secondhand dealer shall at all times be subject to examination and inspection by the police department. If, upon the inspection, a police officer shall have reasonable cause to believe that any of the property is stolen, he shall segregate it. It shall thereafter be unlawful for the person in possession of the property to dispose of it, or in any manner mutilate, melt or disfigure it, until thirty (30) days have elapsed from the date of the inspection.

**Sec. 10-246. Property to be held after acquisition.**

All property purchased or acquired by a secondhand dealer shall be held for not less than thirty (30) days, or longer if directed by the Police Department, before disposing of same by sale, transfer, shipment or otherwise. All property and/or titles must be kept on the premises. During such thirty (30) day period, these secondhand items will be maintained in an area not accessed by customers.

**Sec. 10-247. Dealing with minors.**

It shall be unlawful for any secondhand dealer to acquire any property of the kinds described in this Article from any person under the age of 18 years, provided that any secondhand dealer will not be held subject to the provisions of this section if the person produces a valid identification, as defined in this Article, showing he/she is at least 18 years of age.

**Sec. 10-248. Suspensions, revocations and appeals of permit denials.**

(a) The City Manager may suspend or revoke a secondhand dealer or employee permit pursuant to the reasons stated in this Article. If the City Manager or designee intends to suspend or revoke said permit(s), the City Manager or designee shall send a written notice of suspension or revocation, by certified mail, return receipt requested, to the permit holder at the address for the secondhand dealership or pawnshop stated on the permit and, if an employee permit, to the address stated on the employee's application. The written notification shall inform the permit holder of the reason for the suspension or revocation and shall inform the permit holder of his/her right to appeal said determination to the City Council or designated hearing officer within thirty (30) days of the suspension or revocation letter, pursuant to the procedures stated herein.

(b) If the applicant chooses to appeal a denial of a permit by the City Manager, or suspension or revocation of a permit by the City Manager, pursuant to this Article, the applicant/permittee shall do so in writing to the City Manager within the thirty-day period following the denial, suspension or revocation letter. Upon receipt of the request to appeal, the City shall schedule a public hearing in front of the City Council or designated hearing officer within sixty (60) days of the receipt of the appeal request. The City shall inform applicant/permittee of said hearing no less than fourteen (14) days prior to the hearing, in writing, of the location and time of the hearing.

(c) The hearing shall be conducted in accordance with the procedures as established by the Mayor. The City Council or designated hearing officer shall render a decision to affirm or reverse the City Manager's decision to deny, suspend or revoke the permit in writing within five (5) business days from the date of the hearing, by certified mail, return receipt requested, to the applicant/permittee. The decision of the

City Council or designated hearing officer shall be final.

(d) The applicant/permittee may appeal an adverse decision of the City Council or Hearing Officer by filing a Petition for Writ of Certiorari with the County Superior Court in accordance with state law within thirty (30) days of the Council or Hearing Officer's decision.

**Sec. 10-249. Redemption; lost or damaged goods**

Any person properly identifying him or herself and presenting a pawn ticket to the pawnbroker shall be presumed to be the pledger or seller and shall be entitled to redeem the pledged goods described in such ticket. In the event such pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be responsibility of the pawnbroker to replace the lost or damaged goods with like kinds of merchandise and proof of replacement shall be a defense to prosecution. For the purposes of this section, lost includes destroyed or having disappeared because of any cause, whether known or unknown, that results in the pledged goods being unavailable for return to pledger.

**Sec. 10-249.1. Additional registration and regulations applicable to dealers in precious metals and gems**

(a) In addition to the provisions contained in this Article, dealers in precious metals and gems shall comply with the requirements of O.C.G.A. § 43-37-1, et. seq., and shall register with the police department as required by State law, in addition to compliance with this Article. It shall be unlawful for any person to advertise or transact business as a dealer in precious metals and gems without first registering to do so pursuant to this section. It shall be unlawful for any dealer in precious metals or gems to purchase precious metals in a melted or smelted state unless the purchase is from a registered dealer in precious metals or gems.

(b) Nothing in this Article shall supersede the requirements of O.C.G.A. § 44-12-130, et. seq.; rather, the provisions provided herein shall be construed as cumulative to such state law provisions.

**Section 2**

All applicants already engaging in the business of operating a secondhand dealership in the City prior to the effective date of this Ordinance shall file an application in accordance with the terms of this Ordinance within sixty (60) days of the effective date of the Ordinance, which shall be renewed each year the business is in operation in accordance with this Ordinance, and shall have a valid permit for all parties required to have same by this Ordinance within 105 days of the effective date of this Ordinance, unless a denial of same has been appealed in accordance with this Ordinance.

**Section 3**

This Ordinance shall be effective on June 6, 2014 and its provisions appropriately incorporated into the Code of the City of Elberton, Georgia. This Ordinance repeals any and all conflicting ordinances and amendments.

Please sign and date below acknowledging that you understand your responsibilities to the City of Elberton as a secondhand dealer, dealer in precious metals and gems, and pawnbroker and will adhere to the provisions pursuant to the City of Elberton's Code of Ordinances, Chapter 10. Businesses, Article VIII.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Applicant Name \_\_\_\_\_

Business Name \_\_\_\_\_