

ORDINANCE NO. (O) 11-03

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY TOWN CODE CHAPTER 8, BUSINESS REGULATIONS, ADDING ARTICLE 8-5, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS; AND REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH

WHEREAS, the Town of Oro Valley is a political subdivision of the State of Arizona vested with all associated rights, privileges and benefits and is entitled to the immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, on September 27, 1989, the Town Council adopted a certain document entitled "The Code of the Town of Oro Valley, Arizona"; and

WHEREAS, the Town desires to establish a process for requiring pawnbrokers, secondhand dealers and scrap metal dealers within the Town to report items they receive to the Town of Oro Valley Police Chief; and

WHEREAS, the Mayor and Council have determined that amending Chapter 8, Business Regulations, adding Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, is just and appropriate, and is found to be in the best interest of the Town.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona that the certain document, known as "The Oro Valley Town Code", Chapter 8, Business Regulations, is amended to add Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, as follows:

SECTION 1. Chapter 8, Business Regulations, of the Oro Valley Town Code is amended to add Article 8-5, Pawnbrokers, Secondhand Dealers and Scrap Metal Dealers, as follows, with additions in all CAPS and deletions in ~~strike through text~~:

Chapter 8, Business Regulations

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Article 8-5

PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL DEALERS

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8-5-1 DEFINITIONS

FOR THE PURPOSES OF THIS ARTICLE:

A. THE FOLLOWING TERMS SHALL HAVE THE MEANINGS GIVEN IN SECTION 44-1621, ARIZONA REVISED STATUTES: IDENTIFICATION DOCUMENT, LOAN, PAWN TICKET, PAWN TRANSACTION, PAWNBROKER, PAWNSHOP, PLEDGED GOODS, PLEDGOR, REPORTABLE TRANSACTION, AND TRANSACTION DATE.

B. "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 OTHER MERCHANDISE COMMONLY CLASSIFIED AS JEWELRY AND COMMONLY OFFERED FOR SALE IN JEWELRY STORES.

C. "PAWN" MEANS TO HOLD OR RETAIN AN ITEM FOR A PERIOD OF NINETY (90) DAYS ALLOWING THE CUSTOMER TO RECLAIM THE ITEM. THE CUSTOMER HAS THE RIGHT TO RECLAIM THE ITEM FROM THE DEALER WITHIN THIS NINETY (90) DAY PERIOD. AFTER THE NINETY (90) DAY PERIOD THE ITEM MAY BE SOLD OR OTHERWISE DISPOSED OF BY THE DEALER WHO HAS LAWFULLY ACQUIRED THE PROPERTY.

D. "PURCHASE" MEANS TO BUY AN ITEM FOR AN AGREED UPON PRICE. THE PURCHASER UNDERSTANDS THE ITEM MUST BE HELD FOR TWENTY (20) DAYS BEFORE CHANGING THE STATUS.

E. "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, BUT NOT LIMITED TO: SCRAP METALS, COINS, GEMS OR SEMIPRECIOUS STONES, SERIALIZED ELECTRONICS AND APPLIANCES, JEWELRY, PRECIOUS METALS PURCHASED FROM ANY PERSON OTHER THAN THE ORIGINAL MANUFACTURER OR AUTHORIZED DISTRIBUTOR SELLING THE SAME

FOR MONEY, CREDIT OR EXCHANGE, SPORTS OR OTHER SPORTS RELATED EQUIPMENT, SERIALIZED AUTOMOBILE TIRE RIMS, SERIALIZED TOOLS, SERIALIZED MUSICAL INSTRUMENTS, SERIALIZED OPTICAL AND PHOTOGRAPHIC EQUIPMENT, COMPACT DISCS, DIGITAL VIDEO DISCS, ALL GOODS AND ARTICLES WHICH BEAR A SERIAL NUMBER, OWNER APPLIED NUMBER OR HAVE A FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00). A SECONDHAND DEALER MEANS ANY 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. THIS DEFINITION INCLUDES SCRAP METAL DEALERS. THIS DEFINITION DOES NOT INCLUDE ORGANIZATIONS THAT ARE RECOGNIZED AS NOT-FOR-PROFIT UNDER THE LAWS OF THIS STATE OR ANY OTHER STATE.

F. "SCRAP METAL" INCLUDES ANY FERROUS OR NONFERROUS METALS AS DEFINED IN SECTION 44-1641 OF THE ARIZONA REVISED STATUTES, ANY INSULATED OR UNINSULATED METALLIC CABLE, AND ANY OTHER MATERIALS COMMONLY KNOWN AS "SCRAP METAL" INCLUDING IRON, COPPER, BRASS, LEAD, ZINC, TIN, STEEL, ALUMINUM, METALLIC CABLES AND WIRES AND OTHER LIKE MATERIALS, EXCEPT USED FOOD AND BEVERAGE CONTAINERS.

G. "SCRAP METAL DEALER" MEANS EACH PERSON OR BUSINESS ENTITY INCLUDING ALL EMPLOYEES OF THE PERSON OR BUSINESS ENTITY, ENGAGED IN THE BUSINESS OF PURCHASING, TRADING, BARTERING OR OTHERWISE RECEIVING SECONDHAND OR CASTOFF MATERIAL OF ANY KIND, EXCEPT USED FOOD AND BEVERAGE CONTAINERS, WHICH IS DEFINED IN THIS SECTION OR COMMONLY KNOWN AS SCRAP METAL. THIS TERM INCLUDES AUTOMOTIVE RECYCLERS AS DEFINED AND LICENSED PURSUANT TO TITLE 28 OF THE ARIZONA REVISED STATUTES WHEN SUCH RECYCLER ENGAGES IN THE ACTIVITY DEFINED IN THIS SUBSECTION.

8-5-2 DUTY TO REPORT RECEIPT OF ARTICLES TO POLICE

A. A PAWNBROKER SHALL MAKE AND DELIVER TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, A TRUE, COMPLETE AND ACCURATE REPORT OF EACH ARTICLE THE PAWNBROKER RECEIVES THROUGH A REPORTABLE TRANSACTION, AS PROVIDED BY SECTION 44-1625, ARIZONA REVISED STATUTES. IN ADDITION, PAWNBROKERS SHALL BE REQUIRED TO REPORT TO ANY OTHER SITE (LEADS ONLINE, ETC.) THAT THE CHIEF OF POLICE OR HIS/HER DESIGNEE REQUIRES.

B. IT SHALL BE UNLAWFUL FOR ANY SECONDHAND DEALER, INCLUDING ANY SCRAP METAL DEALER, OR ANY EMPLOYEE OR AGENT THEREOF TO FAIL, NEGLECT OR REFUSE TO DELIVER TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, WITHIN FIVE (5) BUSINESS DAYS AFTER THE RECEIPT THEREOF, A FULL, TRUE AND COMPLETE REPORT OF ANY 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:

1. COINS.

2. GEMS OR SEMIPRECIOUS STONES.
3. SERIALIZED ELECTRONICS, APPLIANCES, AND OPTICAL OR PHOTOGRAPHIC EQUIPMENT.
4. JEWELRY.
5. PRECIOUS METALS PURCHASED FROM ANY PERSON OTHER THAN THE ORIGINAL MANUFACTURER OR AUTHORIZED DISTRIBUTOR SELLING THE SAME FOR MONEY, CREDIT OR EXCHANGE.
6. SERIALIZED AUTOMOBILE TIRE RIMS.
7. ALL TOOLS, INCLUDING, BUT NOT LIMITED TO, HAND TOOLS, POWER TOOLS, METERS, GAUGES, TOOL ATTACHMENTS AND LADDERS.
8. SERIALIZED MUSICAL INSTRUMENTS.
9. COMPACT DISCS, DIGITAL VIDEO DISCS, EXPANDED MEMORY CARDS AND GAME CARDS, VIDEO GAMES AND GAME CARDS WHERE THE TOTAL VALUE OF THE TRANSACTION EXCEEDS TEN DOLLARS (\$10.00). TRANSACTIONS SHALL NOT BE SPLIT INTO SMALLER PORTIONS FOR THE PURPOSE OF AVOIDING THE REPORTING REQUIREMENTS OF THIS SECTION.
10. SCRAP METAL.
11. BICYCLES.
12. GOLF CLUBS AND OTHER SPORTS RELATED EQUIPMENT.
13. BALLISTIC VESTS, BULLETPROOF VESTS AND BODY ARMOR.
14. ALL GOODS AND ARTICLES WHICH BEAR A SERIAL NUMBER, OWNER APPLIED NUMBER, OR HAVE A FAIR MARKET VALUE IN EXCESS OF ONE HUNDRED DOLLARS (\$100.00).
15. COLLECTIBLE GOODS AND ARTICLES WHICH CONTAIN AUTOGRAPHS, LIMITED EDITION DESIGNATIONS AND NUMBER SEQUENCES.

8-5-3 CONTENTS OF REPORT TO POLICE

THE REPORT REQUIRED BY SECTION 8-5-2 SHALL BE DEVELOPED AND MAINTAINED BY THE TOWN AND 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 IDENTIFICATION DOCUMENT PRESENTED BY THE PLEDGOR OR SELLER; AND, FOR SCRAP METALS, THE NUMBER AND STATE OF ISSUANCE OF THE LICENSE ON THE VEHICLE USED TO DELIVER THE SCRAP METAL.
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, AND A RIGHT INDEX FINGERPRINT OF EACH SELLER.
- THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO THOSE LISTED IN A.R.S. SECTION 44-1601 *ET. SEQ.*

8-5-4 DUTY TO REPORT/PHOTOS REQUIRED

A DIGITAL PHOTO OF THE IDENTIFICATION DOCUMENT THAT THE DEALER OBTAINS FROM THE SELLER, AND A DIGITAL PHOTO OF EACH PAWN ITEM SHALL BE PLACED ON TOP OF THE REPORT FORM AND SUBMITTED WITH THE REPORT.

8-5-5 FORM OF REPORTS; WHEN DUE

A. ALL REPORTS REQUIRED BY SECTION 8-5-2 SHALL BE WRITTEN OR PRINTED ENTIRELY IN THE ENGLISH LANGUAGE ON FORMS PROVIDED BY THE TOWN IN A CLEAR AND LEGIBLE MANNER, AND SHALL BE DELIVERED TO THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, BY ELECTRONIC MEANS AS APPROVED BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE. THE FINGERPRINT REQUIRED BY SECTION 8-5-3 SHALL BE AFFIXED IN THE MANNER DESCRIBED ON THE FORM PROVIDED BY THE TOWN. ALL REPORTS REQUIRED BY SECTION 8-5-2 SHALL BE DELIVERED WITHIN FIVE (5) BUSINESS DAYS AFTER THE RECEIPT OF AN ITEM THROUGH A REPORTABLE TRANSACTION.

B. EACH TRANSACTION REPORT WILL 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 ONE ITEM ON THE REPORT (E.G. "SIX (6) SILVER RINGS").

C. EACH TRANSACTION REPORT FORM SHALL BE PURCHASED IN ADVANCE FROM THE TOWN'S POLICE DEPARTMENT FOR THREE DOLLARS (\$3.00) PER FORM. UPON PAYMENT, THE REPORT FORMS WILL BE ASSIGNED TO THE LICENSEE.

8-5-6 REQUIREMENTS; RECORD OF TRANSACTIONS; POLICE DEPARTMENT HOLD ON PROPERTY

A. EVERY SECONDHAND DEALER WITHIN THE TOWN 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 THE TRANSACTION TAKES PLACE. SUCH RECORD SHALL CONTAIN ALL THE INFORMATION REQUIRED TO BE REPORTED TO THE CHIEF OF POLICE, OR THEIR DESIGNEE, UNDER THE PROVISIONS OF SECTIONS 8-5-2 AND 8-5-3 AND SHALL BE RETAINED FOR NO LESS THAN TWO (2) YEARS FROM THE DATE OF THE LAST ENTRY IN ADDITION TO ANY INFORMATION REQUIRED UNDER A.R.S. § 44-1601 *ET. SEQ.*

B. THE RECORD OF TRANSACTIONS REQUIRED BY SUBSECTION (A) SHALL BE AVAILABLE FOR INSPECTION BY THE CHIEF OF POLICE OR HIS/HER DESIGNEE, 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, OR HIS/HER DESIGNEE, MAY PLACE A HOLD ON THE PROPERTY FOR A PERIOD OF 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 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 THE POLICE OFFICER.

E. THE TOWN'S 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 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 TOWN'S 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 TOWN'S 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.

8-5-7 PROHIBITED ACTS

A. NO PAWNBROKER, SECONDHAND DEALER OR ANY EMPLOYEE OR AGENT THEREOF SHALL:

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 INTOXICATED PERSON.
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 AS DETERMINED ACCEPTABLE BY THE TOWN'S POLICE DEPARTMENT, 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, EXCEPT FOR SCRAP METAL, COMPACT DISCS, DIGITAL VIDEO DISCS, EXPANDED MEMORY CARDS AND GAME CARDS UNTIL TWENTY (20) DAYS AFTER FILING THE REPORT REQUIRED BY SECTION 8-5-2. FOR THE PURPOSES OF THIS SECTION, THE TWENTY (20) DAY RETENTION PERIOD BEGINS UPON RECEIPT OF THE TRANSMISSION OF THE TRANSACTION, AS APPROVED BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE.
5. SELL, TRADE, TRANSFER OR DISPOSE OF ANY GOODS, WARES, MERCHANDISE OR OTHER ARTICLES SUBJECT TO A POLICE DEPARTMENT HOLD DESCRIBED BY SECTION 8-5-6, 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 A 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 TOWN'S POLICE DEPARTMENT.

7. REFUSE TO PERMIT THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, TO ENTER SUCH BUSINESS DURING NORMAL BUSINESS HOURS FOR THE PURPOSE OF INSPECTING SUCH GOODS OR RECORDS.

B. NO SECONDHAND DEALER SHALL 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 BUSINESS AND SECONDHAND/PAWN LICENSES FROM THE TOWN CLERK'S OFFICE. IN ADDITION, ALL SECONDHAND DEALERS, PAWNBROKERS AND SCRAP METAL DEALERS SHALL ATTEND AND PAY FOR ANY TRAINING REQUIRED BY THE TOWN'S POLICE DEPARTMENT. EACH ATTENDEE SHALL BE GIVEN A COPY OF THE ORDINANCE AFTER COMPLETING THE TRAINING AND ACKNOWLEDGING RECEIPT OF THE CODE.

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.

8-5-8 VIOLATIONS, PENALTIES

EACH VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL CONSTITUTE A CLASS 1 MISDEMEANOR.

8-5-9 SCOPE

PROPERTY WHICH IS IN THE POSSESSION OF PAWNBROKERS, SECONDHAND DEALERS, THE POLICE DEPARTMENT OR OTHER PERSON, AND WHICH HAS ALL THE CHARACTERISTICS SET FORTH IN SECTION 8-5-10, BELOW, SHALL BE DISPOSED OF PURSUANT TO THIS ARTICLE.

8-5-10 PROPERTY TO BE DISPOSED OF

PROPERTY MAY BE DISPOSED OF UNDER THIS ARTICLE IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

- A. THE TOWN HAS REASON TO BELIEVE 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 8-5-6.
- 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 TOWN 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 TOWN POLICE DEPARTMENT HAS NO OTHER LAWFUL REASON FOR HOLDING THE PROPERTY.

8-5-11 INITIATION OF PETITION

THE TOWN'S POLICE DEPARTMENT SHALL FILE A PETITION WITH A HEARING OFFICER DESIGNATED BY THE TOWN MAGISTRATE 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 8-5-10.
2. THE NAME AND ADDRESS OF EACH PERSON DESCRIBED IN SECTION 8-5-10(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.

8-5-12 SERVICE OF THE PETITION; NOTICE OF HEARING

A. THE TOWN'S 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 8-5-10(D), AND, IN ALL CASES, THE PERSON FROM WHOM THE PROPERTY WAS OBTAINED OR WHO CURRENTLY POSSESSES THE PROPERTY SUBJECT TO THE TOWN'S POLICE DEPARTMENT HOLD.

B. A COPY OF SECTIONS 8-5-9 THROUGH 8-5-18 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.

8-5-13 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 8-5-15(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 TOWN, AND SHALL AUTHORIZE THE HEARING OFFICER TO ENTER A RULING CONSISTENT THEREWITH.

8-5-14 HEARING OFFICER

ALL PETITIONS FILED PURSUANT TO THIS ARTICLE SHALL BE FILED WITH AND CONSIDERED BY A HEARING OFFICER APPOINTED BY THE TOWN MAGISTRATE.

8-5-15 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 TOWN'S 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 TOWN'S 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 TOWN POLICE DEPARTMENT.

E. THE DECISION OF THE HEARING OFFICER SHALL BE FINAL UPON ISSUANCE. ANY APPEAL MUST BE FILED IN SUPERIOR COURT.

8-5-16 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.

8-5-17 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 THAT IS PRESENTED WITH A COPY OF THE HEARING OFFICER'S DECISION AND APPROPRIATE IDENTIFICATION SHALL RELEASE THE PROPERTY TO THE PREVAILING PARTY.

8-5-18 LIMITED EFFECT OF HEARING OFFICER DECISION

A. NOTHING IN THIS ARTICLE SHALL PREVENT ANY PERSON FROM FILING AN ACTION IN A COURT OF APPROPRIATE JURISDICTION TO ESTABLISH OWNERSHIP TO THE PROPERTY.

8-5-19 PROVISIONS SEVERABLE

A. IF A PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCES 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.

8-5-20 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 TOWN CLERK SHALL REVOKE A LICENSE ISSUED UNDER THIS ARTICLE FOR THE NON-EXCLUSIVE REASONS LISTED BELOW, WHICH INCLUDE:

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 TOWN'S 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 HAD 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.

8-5-21 REVOCATION HEARING

A. THE TOWN CLERK, UPON NOTIFICATION BY THE CHIEF OF POLICE, OR HIS/HER DESIGNEE, THAT GROUNDS FOR REVOCATION EXIST, SHALL FILE A WRITTEN PETITION FOR REVOCATION WITH THE MAGISTRATE COURT, REQUESTING THAT A TIME AND PLACE BE SET FOR A HEARING AND SPECIFYING THE GROUNDS FOR REVOCATION. WITHIN FIVE (5) DAYS, THE MAGISTRATE SHALL SCHEDULE A HEARING TO BE CONDUCTED WITHIN FIFTEEN (15) DAYS OF THE RECEIPT OF THE PETITION TO REVOKE. THE 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. 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. THE ARIZONA RULES OF EVIDENCE MAY APPLY. HOWEVER, THE 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 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 AFFECTED BY THE MAGISTRATE'S SIGNING OF THE WRITTEN NOTICE OF THE DECISION. APPEAL OF THE DECISION OF THE MAGISTRATE SHALL BE BY WAY OF SPECIAL ACTION TO THE 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 FORFEITED TO THE TOWN.

SECTION 2. All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions, or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by Mayor and Town Council, the Town of Oro Valley, Arizona, this 2nd day of February, 2011.

TOWN OF ORO VALLEY


Dr. Satish I. Hiremath, Mayor

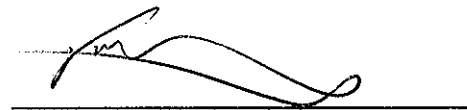
ATTEST:



Julie K. Bower, Town Clerk

Date: 2/4/11

APPROVED AS TO FORM:



Tobin Rosen, Town Attorney

Date: 2/2/11

PUBLISH: DAILY TERRITORIAL
FEBRUARY 14, 15, 16, 17, 2011

POSTED: 2/7/11 - 3/7/11