

ORDINANCE TO AMEND THE CITY OF ROSWELL CODE OF ORDINANCES DEALING WITH PRECIOUS METALS AND GEM DEALERS BY THE DELETION OF THE PREFORMCE BONDING REQUIREMENTS AND THE DELETION OF THE REQUIREMENTS FOR A PUBLIC HEARING BY THE MAYOR & CITY COUNCIL, ADDING AN APPEAL PROCESS TO THE MAYOR AND CITY COUNCIL FOR ANY DENIED LICENSES FOR A PRECIOUS METALS AND GEMS DEALER

WHEREAS, the City of Roswell now desires to amend its Code of Ordinance to uniformly provide for specific provisions with regard to Precious Metals and Gem Dealers; and

WHEREAS, the Mayor & City Council have determined that the regulation of Precious Metals and Gem Dealers is needed to protect the health, safety and welfare of the residents of Roswell; and

WHEREAS, the existing regulations require a performance bond and a public hearing for the Mayor & City Council to approve a business license for a Precious Metals and Gem Dealers in the city limits of Roswell; and

NOW, THEREFORE, pursuant to their authority, the Mayor and City Council adopt the following ordinance to remove the requirements for a performance bond and the public hearing. Also, change the license approval from the Mayor and City Council to the City Administrator and include an appeal procedure of denied licenses to be heard by the Mayor & City Council:

1.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.3 Definitions as follows:

Section 10.4.3 Definitions.

Chief of police shall mean the chief of police of Roswell or his/her designated representative.

City administrator shall mean the city administrator of Roswell or his/her designated representative.

Renewal, when used in connection with an application for a license, shall relate to an unrevoked license of purchase and sale of precious metals and gems to a designated licensee for a designated location, on expiration of which unrevoked license the identical owners thereof, but no other, may be entitled to a new annual license upon filing of the necessary renewal

application, clearance of the chief of police, payment of a twenty-five-dollar investigation fee, payment of the license fee and approval of the city administrator.

2.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.5 (i) and renumbering existing Section 10.4.5(j) to Section 10.4.5 (i) Application for Permit as follows:

Section 10.4.5 Application for Permit.

(i) Payment by check. Dealers shall pay for items covered under this article by check rather than cash in order to provide a more complete record of transactions.

3.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.8 Issuance as follows:

Section 10.4.8 Issuance.

Upon receipt of an application for a license in accordance with the provisions of section 10.4.5 and a check for \$25.00 to cover the investigation fee, the chief of police shall cause such investigation of the applicant's business responsibility or moral character to be made as he deems necessary for the protection of the public good. The chief of police shall make a report of his investigation to the city administrator. The chief of police may, after investigation and finding that the health, safety, or welfare of the public so demands, recommend that a license not be issued to an applicant for reasons including, but not limited to, the following:

(a) Conviction of any felony under the laws of this state or any other state of the United States, provided, however, this shall not apply to any person who has been convicted of a felony after ten (10) years have expired from the date of completion of the felony sentence;

(b) Conviction of any crime within the ten (10) years immediately preceding the date of the filing of the application involving moral turpitude;

(c) Fraud, misrepresentation or false statement of material or relevant facts contained in the application;

(d) That the applicant has engaged in a fraudulent transaction or enterprise; or

(e) An applicant for a license may, in the discretion of the city administrator be issued a temporary permit based upon a preliminary investigation by the chief of police, which permit shall remain in effect until the issuance or denial of a license as herein provided. A confidential record of the investigation shall be kept on file by the chief of police.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.13 Requirements and Unlawful Activities as follows:

Section 10.4.13 Requirements and Unlawful Activities.

(a) It shall be unlawful for any dealer in precious metals or gems or any agent or employee of a dealer in precious metals or gems who makes purchases of precious metals or gems or of goods made from precious metals or gems to:

- (1) Make any false statement in the application for a license as provided for in this article;
- (2) Fails to maintain and make entries in the permanent record book as required by section 10.4.9 of this chapter;
- (3) Make any false entry therein or skip any pages in the record book;
- (4) Falsify, obliterate, destroy or remove from the place of business such permanent record book;
- (5) Refuse to allow any duly authorized law enforcement officer to inspect such permanent record book or any precious metals or gems or goods made from precious metals or gems in his possession, during the ordinary hours of business or at any reasonable time;
- (6) Sell, exchange, or remove from the legal possession of the buyer or to alter the form of any precious metals or gems or goods made from precious metals or gems purchased by remounting, melting, cutting up, or otherwise altering the original form until at least fifteen (15) calendar days have elapsed from the time of purchase or acquisition;
- (7) Fail to make the written reports as required in this article or make a false report; or
- (8) Purchase any precious metals or gems from any person under seventeen (17) years of age.

(b) It shall be unlawful for any person to advertise or transact business as a dealer in precious metals or gems without first registering pursuant to the provisions of this article. Provided, however, those dealers in the business at this time must make application for a license within ten (10) days after the effective date of this article, but may continue to transact business under the terms of this article unless the chief of police recommends that their license be revoked and the city administrator refuse to allow such licensee to continue in this business.

5.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.16 Public Hearing and placing the following Section 10.4.16 number in Reserved as follows:

Section 10.4.16 [Reserved]

6.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, deleting Section 10.4.19 Public Hearing not required for Renewal and placing the following Section 10.4.19 number in Reserved as follows:

Section 10.4.19 [Reserved]

7.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending and renaming Section 10.4.20 Approval by City Council Required for Renewal; Filing Objections as follows:

Section 10.4.20 Approval by City Administrator Required for Renewal; Filing Objections.

(a) A city license or renewal thereof shall not be issued hereunder until the application therefore is approved or granted by the city administrator. All licenses expire on December 31 of each calendar year; provided, however, when timely objections to an application for a renewal license are filed, the life of the current unexpired license is hereby extended to and through the date on which the city administrator grants or denies such renewal application, or until the first Tuesday next after the first Monday in the next February, whichever date is first, if the annual license fee for such renewal shall have been deposited with the city treasurer for such renewal period within five (5) days after being notified that objections have been filed to his application for renewal of his license.

8.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.21 Issuance of License after Approval and Fee Payment as follows:

Section 10.4.21 Issuance of License after Approval and Fee Payment.

When an application for a license, or renewal thereof, has been approved by the city administrator, and the applicant has deposited with the city clerk the annual license fee, the clerk shall issue such license.

9.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, amending Section 10.4.23 License a Privilege only as follows:

Section 10.4.23 License a Privilege Only.

Licenses hereunder shall be mere grants or privileges, and the city administrator of Roswell, Georgia, shall have the discretion to approve or deny any application for a license to sell precious metals and gems or to revoke the same under the provisions of section 10.4.25.

10.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, adding new Section 10.4.24 Appeal procedure as follows:

Section 10.4.24 Appeal procedure.

(a) In the event of a rejection of the license by the city administrator of Roswell or his/her designated representative, the police department or any other person (other than mayor and city council), the applicant shall, within ten days after he has been notified of an adverse determination, submit a notice of appeal to the city clerk. The notice of appeal shall be addressed to the mayor and city council and shall specify the subject matter of the appeal, the date of any original and amended license or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the council, and the name and address of the applicant. The clerk shall place the appeal on the agenda of the next regular council meeting occurring not less than ten (10) or more than thirty (30) calendar days after receipt of the application for council action.

(b) When an appeal is placed on the council agenda, the council shall set a hearing date and instruct the city clerk to give such notice of hearing as may be required by law.

(c) Whenever the city clerk has scheduled, an appeal before the city council, at the time and date set therefore, the mayor and city council shall receive all relevant testimony and evidence from the applicant, from interested parties and from city staff. The city council may sustain, over-rule or modify the action dealing with rejection of the license. The action of the mayor and city council shall be final.

11.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, renumbering Section 10.4.24 to Section 10.4.25 and amending License Fees; Conduct of Business Prohibited after Expiration of License; Fees Nonrefundable as follows:

Section 10.4.25 License Fees; Conduct of Business Prohibited after Expiration of License; Fees Nonrefundable.

(a) All licenses and renewals thereof must be obtained and all fees paid by the applicants therefore by certified check or cash within fourteen (14) days from the date of approval of the license application by the, city administrator or no later than the last business day of the calendar year that the city hall is open for business. The effect of a failure or refusal to pay such annual license fee within such time shall be to nullify such approval which then expires, and the license or renewal shall be void. No business shall be conducted after revocation or expiration of a license, or renewal thereof, unless a further renewal has been issued and paid for or the life of the expiring license has been extended as herein authorized.

(b) If after approval by the city administrator of an original application for a license, or the renewal thereof and the payment by the licensee of the annual fee, the licensee fails to exercise the privilege conferred by the license within nine (9) months from the date of approval of such original application or renewal by the city administrator, the license shall be automatically forfeited for the unused term of the license, without refund of any fee paid.

12.

Chapter 10 Article 10.4 Precious Metals and Gem Dealers, of the Code of Ordinances of the City of Roswell, renumbering Section 10.4.25 to Section 10.4.26 and amending Cancellation of License for Cause after Hearing as follows:

Section 10.4.26 Cancellation of License for Cause after Hearing.

No license which may hereafter be issued hereunder shall be suspended, revoked, or cancelled except for cause as herein defined, after a public hearing upon at least ten (10) days' prior written notice to the licensee of the time, place, and purpose of such hearing, with a statement of the reason for such hearing.

"Due cause" for suspension, revocation, or cancellation of a license hereunder shall consist of any violation of this article, or any part of it, or any laws or ordinances of this city or state prohibiting or regulating the business of purchasing, selling or dealing in precious metals and gems, or violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law involving moral turpitude, or violation of city ordinances other than traffic ordinances. It shall also consist of willfully making false statements, being involved in any scheme for himself and/or herself or that of another applicant which misleads the city in granting a license or renewal, or willful concealment of material matters of fact in obtaining or preventing another from obtaining a license hereunder.

Notice to a licensee to show cause why his license should not be revoked shall consist of a certified copy of a letter from the city administrator charging the licensee, or information and belief, with the violation of a law or ordinance provision, or violation of a provision of this article or state law, which alleged violation, if true, warrants revocation, and notifying such licensee of the time and place of a public hearing, which certified copy shall be served on the licensee in person or by delivery of it to the licensee by delivering it to the licensee's authorized

agent in this city or if neither of the foregoing methods of service can be effected, then by tacking it to the front of the precious metals and gems outlet in said city. Service may be perfected by a city police officer of this city or some other person authorized to serve such papers.

13.

This Ordinance is enacted pursuant to the authority granted to municipal governing authorities in Chapter 35 of Title 36 of the O.C.G.A., known as the *Municipal Home Rule Act of 1965*.

14.

All ordinances, parts of ordinances and regulations in conflict here are repealed as of the effective date of this Ordinance.

15.

It is the intention of the Mayor and City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinance for the City of Roswell, Georgia and the sections of such text may be renumbered to accomplish such intention.

16.

This Ordinance shall take effect and be in force from and after the date of its adoption on _____ 2010, the public welfare demanding it.

Jere Wood, Mayor

Attest:

Sue Creel, City Clerk
(SEAL)

Councilmember Jerry Orlans

Councilmember Rebecca Wynn

Councilmember Betty Price

Councilmember Richard Dippolito

Councilmember Kent Igleheart

Councilmember Nancy Diamond