THE CITY OF DORAVILLE
AGENDA ITEM SHEET

Subject: Pawnshop Regulation

Date of Meeting: 09/07/10

Budget Impact: ___Y _X_ N

Budget Impact Amount: $ N/A

Funding Source:
( )Annual
( )Capital
( )N/A

Regular Meeting	(X)
Work Session	( )
Recommendation	( )
Policy/Discussion	( )
Report	( )
Other	( )

CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE CITYOFDORAVILLE

Action Requested: Update the pawnshop regulations to include, but not limited to, restrictions on the number of pawnshops permitted within the City limits.

History, Facts, Issues: The current pawnshop regulations were enacted in 1981 and have received little or no updating since their enactment. Changes desired include limiting the number of pawnshops by either distance or population. Furthermore, there is currently no set regulatory fee for pawnshops as permitted by state law and our local ordinances.

Options: Update the pawnshop regulations or leave as is.

Recommended Action: Direct the City Attorney to update the pawnshop ordinance to at least include limitations on the number of shops allowed and to also set regulatory fees.

Department: _____ Department Head: _____

Administrative Comments and Recommendation: _____

Action Taken By Board: _____

ARTICLE III. PAWNSHOPS*

Sec. 6-76. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section.

Employee means any person working for an owner or pawnbroker or any owner or pawnbroker who in the performance of his duties comes into substantial contact with members of the public incidental to pawn related activities, whether on a parttime or fulltime basis and either with or without remuneration.

Pawn or *pledge* means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the applied power of sale upon default.

Pawnbroker means any person whether an owner or not who works in a pawnshop on a regular basis and in a managerial capacity whereby he has charge of the business or operation of the pawnshop. A "pawnbroker" is further defined as any person whose business or occupation it is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise, or any kind of personal property whatsoever, as security for the repayment of money lent thereon. The term shall also mean any person, firm, corporation or partnership engaged in the business of buying, selling, bartering, taking any item on consignment, exchanging in any manner at retail or wholesale, or otherwise dealing for profit in secondhand goods obtained from anyone other than a licensed wholesaler. Such term shall also include sellers and vendors in flea markets; provided, however, that nothing in this article shall apply to:

(1) Those organizations or entities registered with the state as nonprofit religious or charitable organizations which sell reconditioned or used articles;

(2) Garage sales at private residences, limited to four (4) per year per household, unless a permit required by this article is obtained;

(3) Dealers exclusively engaged in the sale of numismatic coins or other coinage.

Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares, merchandise or any other kind or type or article of personal property, as security for the repayment of money lent thereon. The term "pawnshop" includes any person engaged in the business of buying, selling, bartering, taking any item on consignment, exchanging in any manner at retail or wholesale or otherwise dealing for profit in secondhand goods, obtained from anyone other than a licensed wholesaler. Such term shall include pawnbrokers and all dealers who are in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers. The term shall also mean a business wherein a certain space, area, or particular location is leased, loaned or sold to persons, firms or corporations to enable those persons,

*State law reference—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

firms or corporations to sell, barter, trade, exchange, consign or buy secondhand goods. For purposes of this article, this type of business or business arrangement is sometimes referred to as a "flea market."

Secondhand goods means tangible personal property, security or printed evidences of indebtedness, which property is purchased by, deposited with, or delivered into the possession of a secondhand dealer in the course of his business, including items taken on consignment, to include but not be limited to gold, silver, platinum, or other precious metal, jewelry, diamonds, gems, and other precious or semiprecious stones, audio and video components and equipment, citizens band radios, photographic equipment, including but not limited to cameras, lenses, electronic flashes, tripods and developing equipment, machinery, tools, electric motors, calculators, musical instruments, typewriters, firearms, electronic equipment, radios, and all other items of personal property.
(Ord. No. 211, § I, 9-8-81; Ord. No. 211-11, 10-15-90(1))

Sec. 6-77. Exclusions.

Nothing in this article shall apply to:

(1) Those organizations or entities registered with the state as nonprofit, religious or charitable organizations which sell reconditioned or used articles.

(2) Garage sales by private residents, limited to four (4) per year per household unless a secondhand dealer license is obtained.

(3) Dealers exclusively engaged in the sale or exchange of numismatic coins or other coinage.

(Ord. No. 211, § I, 9-8-81)

Sec. 6-78. Annual permit required.

All persons, before beginning the business of operating a pawn shop, or similar place where money is advanced on goods or other effects, or merchandise of any kind is taken in pawn, shall first file an application with the police department for an annual permit to conduct this business.
(Ord. No. 211, § II, 9-8-81)

Sec. 6-79. Application for permit.

The application for the annual permit under this article shall state the street and number at which it is proposed to operate the business. The application shall contain the full name, address, phone number, date of birth and social security number of all persons, including pawnbrokers, owning any interest in the proposed business plus any additional information, including fingerprints, deemed necessary by the police department. If the proposed applicant is a corporation, the name, address, phone number and date of birth of each and every officer, director and shareholder shall be furnished in addition to the above information. The proposed

applicant shall pay the costs of administering this section and the issuance of the permit but such cost shall not exceed an amount determined by the City Council and listed in the schedule of fees and charges maintained in the City Clerk's office.
(Ord. No. 211, § III, 9-8-81)

Sec. 6-80. Permit required for occupation tax certificate.

No occupation tax certificate shall be issued to any person for the conduct of pawnshop operation until the annual permit required by this article shall have been granted by the police department.
(Ord. No. 211, § IV, 9-8-81)

Sec. 6-81. Employee identification card.

No person shall be employed by a pawnshop who performs duties which result in substantial contact with members of the public incidental to the operation of a pawnshop until this person has been fingerprinted by the police department and has been issued a personal identification card authorizing this person to be employed by a pawnshop. It shall be the duty of the pawnbroker to assure that the provisions of this section are fully and completely complied with.
(Ord. No. 211, § VI, 9-8-81)

Sec. 6-82. Character of applicant, etc.

No person shall be issued an annual permit or an identification card or a occupation tax certificate for the operation of a pawnshop, as required by this article, or a permit to act as an employee thereof, who has been convicted or pleaded nolo contendere to a crime involving moral turpitude, or to any crime involving theft, embezzlement, burglary, forgery or any crime against the property of another. No corporation shall be issued an annual permit or occupation tax certificate for the operation of a pawnshop if any of its officers or directors or employees have been convicted or pleaded nolo contendere to a crime involving moral turpitude, or to any crime involving theft, embezzlement, burglary, forgery or any crime against the property of another.
(Ord. No. 211, § VII, 9-8-81)

Sec. 6-83. Books, records.

All pawnbrokers shall keep books wherein shall be entered an accurate description of all property pledged, consigned, traded or sold to them. This description shall include to the extent possible the name of the maker of the article, any identifying mark or number, and a statement of the kind of material of which it is made. In these books there shall be entered also the full name and address of the person by whom it was deposited or sold and the time when it was done. These entries shall be made as soon after the transaction as is possible, in no event more than one (1) hour thereafter. The pawnbroker shall obtain the right index fingerprint provided that finger has not been amputated; if so, a print from the next adjoining finger shall

be acceptable. If the person's fingerprint has been previously obtained by the pawnbroker, it shall not be necessary to obtain another print provided such print is readily available upon request. Normal commercial transactions with established businesses shall be exempted.

The pawnbroker shall also obtain a photograph and fingerprint of the person by whom property is deposited, consigned, or sold and shall do so each time property is pawned, consigned, or sold. It shall be acceptable for the pawnbroker to take an undeveloped picture of such person which shall be cross-indexed with the name and address of the person by whom the property was pawned, conveyed, or sold, and the pawnbroker shall make such film available to the City police department upon request with the responsibility of developing being placed upon the City police department. Such undeveloped film shall be retained along with other required documentation for a period of twelve (12) months from the date of such pawn or sale. Such photograph shall not be required where purchases are made in the ordinary course of business from wholesalers who have a valid wholesale identification number and who furnishes a receipt for such property.
(Ord. No. 211, § VIII, 9-8-81; Ord. No. 98-11, § 2, 6-1-98; Ord. No. 98-11 (Restated), § 1, 7-6-98)

Sec. 6-84. Daily reports to police.

(a) Every pawnbroker shall submit a daily report in writing to the police department, in such form and in such manner as may be prescribed by the police department, of all property pledged, traded or bought by him during the twenty-four (24) hours ending at 9:00 p.m. on the date of the report. These reports shall be typewritten. In addition to any other information required by the police department, they shall show:

(1) The name and address of the pawnbroker.

(2) The serial number of pawn tickets.

(3) A full description of all articles, including kind, style, material, color, design, kind and number of stones in jewelry and all identifying names, marks and numbers.

(4) A description of persons selling or pawning, including the full name, address, race, sex, social security number and/or driver's license number, passport or military I.D.

Insufficient reports shall be rejected and any pawnbroker knowingly making them shall be deemed guilty of being in violation of this section.

(b) In addition to the other records and information and called for above, each pawnbroker shall obtain from each person pawning any article or articles with this pawnbroker the fingerprint of the righthand index finger unless this finger is missing in which event the print of the next finger in existence on the righthand of the person pawning the article or articles shall be obtained with a notation as to the exact finger which is printed. All prints shall be made on forms approved by the police department and the pawnbroker shall obtain all other information called for on the form approved. Fingerprints and the information as required herein shall be obtained from all persons pawning or trading any article with a pawnbroker. Each such person upon request, shall furnish a photograph of his full face to the pawnbroker.

(c) In addition to the other records and information as called for, each pawnbroker may photograph each customer, with the photograph showing the pawnbroker's ticket and transaction number. These photographs shall be reduced to a negative form and maintained by the pawnbroker as a permanent business record.

(d) Effective upon the adoption of this section, all pawn brokers within the City shall be required to utilize a computerized pawn sheet program providing for daily reports as herein above required and the City will provide to the licensees the software program needed to accomplish the same. However, licensee shall be required to maintain computer systems that are compatible with those maintained by the city. All licensees shall be required to maintain a backup copy of all data furnished to the City for a minimum of thirty (30) days and shall make the same available upon reasonable request by representatives of the city.
(Ord. No. 211, § IX, 9-8-81; Ord. No. 95-24, § 1, 12-4-95)

Sec. 6-85. Hours of operation.

The hours within which pawnbrokers may keep open their place of business shall be at the direction of the pawnbroker.
(Ord. No. 211, § X, 9-8-81)

Sec. 6-86. Retention period.

Any pawnbroker or person operating under a pawnbroker's license who takes goods on pawn the word "goods" being here used in its broadest sense and including all kinds or personal property, shall hold those goods so taken in pawn for a least forty (40) days before disposing of same by sale, transfer, shipment or otherwise, excluding goods previously pawned and previously reported to the police department. Transactions involving redemption of goods on pawn are not subject to the forty (40) day holding period.

Any pawnbroker or person operating under a pawnbroker's license who buys goods, taking full title thereto, the word "goods" being used in its broadest sense and including all kinds of personal property, shall hold those goods which have been purchased or taken on consignment for least thirty (30) days before disposing of same by sale, transfer, consignment, shipment, or otherwise, excluding goods previously purchased and previously reported to the police department.
(Ord. No. 211, § XI, 9-8-81; Ord. No. 98-11, § 2, 6-1-98; Ord. No. 98-11 (Restated), § 2, 7-6-98)

Sec. 6-87. Mutilation of identification numbers.

It shall be unlawful for any pawnbroker to purchase or acquire in trade or otherwise any article commonly branded with a serial number or other inscription of any type which has been mutilated or altered. Any pawnbroker offered any such article in pawn or in sale shall immediately notify the police department.
(Ord. No. 211, § XII, 9-8-81)

Sec. 6-88. Examination and inspection of articles by police.

All goods purchased or acquired by a pawnbroker shall at all times be subject to examination and inspection by the police department. If upon 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 way mutilate, trade, barter, sell, disfigure or change the character of it, until the later of seven (7) days from the date of the inspection or thirty (30) days from the date of the receipt have elapsed, whichever comes last. The police department may renew hold orders indefinitely.
(Ord. No. 211, § XIII, 9-8-81)

Sec. 6-89. Dealing with minors.

It shall be unlawful for any pawnbroker, his agents or employees, to receive any goods in pawn, trade or sale from minors.
(Ord. No. 211, § XIV, 9-8-81)

Sec. 6-90. Revocation of license.

Any person failing to comply with any provision of this article or any other law, ordinance or regulation as may be passed by the City for the conduct of the business of a pawnshop or pawnbroker shall have his license to conduct such business revoked. This revocation shall result from a conviction in any court for violation of any provision of this article or any other ordinance or regulation covering the conduct of the business for which a permit or license shall have been issued.
(Ord. No. 211, § XV, 9-8-81)

Sec. 6-91. Unlawful activities.

It shall be unlawful for any pawnbroker or operator or agent or employee thereof to:

(1) Make any false statement in any registration or report required by this article.

(2) Fail to make entries in the books and records required to be kept pursuant to this article.

(3) Make any false entry in any book, record or entry required to be kept or made by this article.

(4) Falsify, obliterate, destroy or remove from the place of business any records of articles taken in pawn, trade or sale.

(5) Refuse to allow any duly authorized law enforcement officer to inspect the books and records, or any articles taken in trade or pawn during the ordinary course of business or at any other reasonable time.

(6) Sell, exchange, trade or barter or in any other way dispose of any article prior to the time limits required in this article.

(7) Fail to make the written reports as required by this article.

(8) Trade, barter, pawn or purchase any article from any person under age eighteen (18) years, except for refunds or trade-ins of items originally sold to him.

(Ord. No. 211, § XVI, 9-8-81)

Secs. 6-92—6-109. Reserved.

ARTICLE IV. PEDDLERS AND HAWKERS*

Sec. 6-110. License required.

It shall be unlawful for any peddler to engage in any business in the City unless, prior to engaging in such business, such peddler has applied and obtained a license as provided for herein. Furthermore, no peddler shall engage in any business in the City unless said peddler has complied with the provisions of Chapter 46 of Title 43 of the Official Code of Georgia Annotated, more particularly described as the Transient Merchant Act of Georgia.

(Ord. No. 96-12, § 2, 5-20-96)

Sec. 6-111. 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:

Applicant means not only the person applying for a permit and license under this article but also all employees of the applicant, whether paid or not, who will be engaging in the occupation of peddler within the corporate limits of the city.

Peddler, as used in this article means any person, firm, or corporation, as principal or agent, or both, which is not a regular retail or wholesale merchant with a permanent place of business in this city, traveling by foot, wagon, automobile, truck, or any other means of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting wares, merchandise of whatever type or character, all food stuff, or provisions, offering and exposing same for sale or making sales and delivering articles to prospective purchasers within the city, or who, without traveling from place to place shall sell or offer the same for sale from a wagon, vehicle of any type, railroad car, or any other type of vehicle or conveyance. The term "peddler" shall also mean any person traveling from house to house or business to business offering personal services such as, by way of example, lawn maintenance or lawn care, home improvement sales or services, or any other type of service or labor of whatever type of character.

(Code 1969, § 9-62; Ord. No. 187, § II, 6-7-76; Ord. No. 96-12, § 1, 5-20-96)

***State law references**—Disabled veterans and blind persons engaging in peddling, O.C.G.A. § 43-12-1; Georgia Charitable Solicitations Act of 1988, O.C.G.A. § 43-17-1 et seq.; peddlers and itinerant traders, O.C.G.A. § 43-32-1 et seq.; Transient Merchants Act of Georgia, O.C.G.A. § 43-46-1 et seq.