CITY OF
GAINESVILLE

Mayor/Council Meeting Agenda
Tuesday, May 19, 2020, 5:30 PM
Public Safety Complex, Municipal Court Room
701 Queen City Parkway, Gainesville, GA 30501
Mayor or Mayor Pro Tem Presides

DUE TO THE CURRENT STATE OF EMERGENCY AND THE NEED FOR SOCIAL DISTANCING, PUBLIC PARTICIPATION WILL BE AVAILABLE VIA FACEBOOK LIVE AT www.facebook.com/GainesvilleGeorgiaGovernment.

INVOCATION:

PLEDGE OF ALLEGIANCE:

COUNCIL ANNOUNCEMENTS:

PUBLIC COMMENTS: (20 minutes maximum)

CONSENT AGENDA:

Appointments

A. Airport Advisory Committee
- Appoint Allen Nivens to Replace Jimmy Nivens
- Reappoint Alvin Kemp

B. Housing Authority
- Reappoint Broughton Cochran

Minutes

A. March 20, 2020 Called Council Meeting

B. March 23, 2020 Called Council Meeting

C. March 27, 2020 Called Council Meeting

D. April 1, 2020 Called Council Meeting

E. April 3, 2020 Called Council Meeting

F. April 21, 2020 Mayor/Council Meeting

G. April 30, 2020 Work Session

H. May 5, 2020 Mayor/Council Meeting

Resolutions

A. PR-2020-05 Bureau of Justice Assistance Coronavirus Emergency Supplemental Funding Program Grant

GENERAL LEGISLATION:

A. **Ordinance 2020-09**
Amend Chapter 6-16 Entitled Licenses Permits and Business Requirements
AN ORDINANCE TO AMEND CHAPTER 6-16 ENTITLED LICENSES, PERMITS AND BUSINESS REQUIREMENTS OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO PROVIDE FOR THE APPLICATION, APPROVAL AND ENFORCEMENT OF PAWNBROKERS AND SECOND HAND DEALER OPERATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

CITY MANAGER ISSUES:

A. BR-2020-18 Approval of Exercising Power of Eminent Domain at 628 EE Butler Parkway
(Tabled at the April 21, 2020 Mayor/Council Meeting - Staff recommends tabling to the June 16, 2020 Mayor/Council Meeting)

CITY ATTORNEY ISSUES:

CITY CLERK ISSUES:

EXECUTIVE SESSION:

ADJOURNMENT:

Final: Monday, May 18, 2020, 10:20 AM

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/12/2020

Presenter:

Item of Business: Consent Agenda Items

Meeting Date: 5/19/2020

Purpose of Request:

The following appointments, minutes and/or resolutions are being considered under the Consent Agenda Section. These items were previously distributed for review and/or discussed. Unless otherwise directed by Mayor and Council, they will not be discussed during this meeting.

If you have questions regarding these documents, please feel free to contact the City Clerk's Office during normal business hours (Monday through Friday from 8:00 AM to 5:00 PM) at 770-535-6865 or via email to cityclerk@gainesville.org.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Department Director:

If funding is involved, are funds approved within the current budget?

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/8/2020

Presenter: Danny Dunagan

Item of Business: Airport Advisory Committee
- Appoint Allen Nivens to Replace Jimmy Nivens
- Reappoint Alvin Kemp

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this request is to address the expired term positions held by Jimmy Nivens and Alvin Kemp.

History/Background:

The AAC follows the guidelines of the City Charter and the Code of Ordinances as well as the requirements set forth in Business Resolution 2011-43. Members serve three-year terms.

Facts & Issues for Consideration:

Alvin Kemp confirmed willingness to serve as representative of Ward 5.
Allen Nivens confirmed willingness to serve as representative of Ward 4.
John Haynes no longer resides in Ward 3 and is therefore no longer eligible to serve as representative for Ward 3.

The Mayor nominated Alvin Kemp for reappointment and Allen Nivens to replace Jimmy Nivens during the May 14, 2020 Work Session.

Department Recommendation:

Consider the nominations as submitted by the Mayor during the May 14, 2020 Work Session.

Department Director:

Danny Dunagan

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

	Description	Type
🗋	AAC Members	Backup Material
🗋	AAC Attendance Report	Backup Material

AIRPORT ADVISORY COMMITTEE

POST	LAST NAME	FIRST NAME	APPOINTED	REAPPOINTED	EXPIRATION
Ward 1	Graybeal	Casey	5/2/2017	8/21/2018	9/4/2021
Ward 2	Smith	Rodney	9/5/2006 UE	3/17/2009 9/4/2012 9/1/2015 8/21/2018	9/4/2021
Ward 3	Haynes *Ineligible - Resides outside Ward*	John	3/4/2014	5/2/2017	5/2/2020
Ward 4	Nivens	Jimmy	10/7/2003	6/19/2007 12/21/2010 3/4/2014 5/2/2017	5/2/2020
Ward 5	Kemp, Jr.	Alvin (Lee)	1/6/2004 UE	2/7/2006 3/17/2009 3/4/2014 5/2/2017	5/2/2020
Hall County Representative	Wayne	Alan	12/13/2007	6/5/2012 8/18/2015 8/21/2018	8/18/2021
EX-OFFICIO Representative	Clay	Juli	1/7/2020		1/18/2021
Airport Manager Chair	Poole	Lisa			

TERM: Three year terms

NOTE: Council makes all appointments
Hall County makes recommendations to the Council
Public Works Director (or designee) serves as Chair with voting privileges

CONTACT: Lisa Poole, Lee Gilmer Airport Manager

UPDATED: 1/8/20 ag

AIRPORT ADVISORY COMMITTEE ATTENDANCE REPORT

MEETING			BOARD MEMBER						
	DATE	TYPE	GRAYBEAL	SMITH	HAYNES	NIVENS	KEMP	WAYNE	CLAY
1	2/11/2020	R	1	1	1	1		1	1
2	11/12/2019	R	0	0	1	1	0	0	N/A
3	8/13/2019	R	1	1	1	1	1	0	N/A
4	5/14/2019	R	1	1	1	1	1	1	N/A
5	2/12/2019	R	1	0	1	1	0	1	N/A
6	11/13/2018	R	0	0	0	1	0	1	N/A
8	8/14/2018	R	1	0	1	1	1	1	N/A
9	5/8/2018	R	1	1	0	0	0	1	N/A
10	2/13/2018	R	0	1	1	1	1	1	N/A
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									
	TOTAL		**6**	**5**	**7**	**8**	**4**	**7**	**1**
	ATTENDANCE %		**60%**	**50%**	**70%**	**80%**	**40%**	**70%**	**100%**

TYPE MEETING: **R** = Regular Scheduled Meeting **C** = Called Meeting

ATTENDANCE: **0** = Absent **1** = Attended

NOTES:

Submitted By: Lisa Poole **Date:** 4/28/2020

Recording Secretary

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/5/2020

Presenter: Danny Dunagan

Item of Business: Housing Authority
- Reappoint Broughton Cochran

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this request is to address the expired term position held by Broughton Cochran.

History/Background:

The Housing Authority follows the guidelines within Georgia Code (Section 8-3-50) as well as the City Charter and the City Code of Ordinances. Appointees serve a five-year term.

Facts & Issues for Consideration:

Broughton Cochran has expressed a willingness to serve another term.

The Mayor nominated Broughton Cochran for reappointment during the May 14, 2020 Work Session.

Department Recommendation:

To consider the nomination as submitted by the Mayor during the May 14, 2020 Work Session.

Department Director:

Danny Dunagan

If funding is involved, are funds approved within the current budget?

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
Housing Authority Members	Backup Material
Housing Authority Attendance Report	Backup Material

HOUSING AUTHORITY

POST	LAST NAME	FIRST NAME	APPOINTED	REAPPOINTED	EXPIRES
Commissioner	Thompson	Faron	8/16/2011 UE	8/18/2015	8/18/2020
Commissioner	Cochran	Broughton	2/16/2010	5/5/2015	5/5/2020
Commissioner	Smallwood	Darryl	10/1/1997	8/20/2002 9/2/2008 3/4/2014 2/19/2019	3/4/2024
Resident Commissioner	Brown	Mary	8/16/2011	9/6/2016	9/6/2021
Commissioner	Figueras	Myrtle	1/19/2016 UE	1/22/2019	2/4/2024
Ex-Officio	Couvillon	Sam	1/7/2020		1/18/2021

TERM: Five year terms

CONTACT: Beth Brown, Executive Director
Housing Authority
P.O. Box 653
Gainesville, GA 30503
770-536-1294
bbrown@gainesvillehousing.org
www.gainesvillehousing.org

UPDATED: 1/8/2020 ag

HOUSING AUTHORITY ATTENDANCE REPORT

MEETING			BOARD MEMBER					
	DATE	**TYPE**	**NAME**	**NAME**	**NAME**	**NAME**	**NAME**	**NAME**
1			Cochran	Thompson	Smallwood	Brown	Figueras	Wangeman
14	1/17/2018	Cancelled						
15	2/21/2018	R	1	1	1	1	1	1
16	3/21/2018	Cancelled						
17	4/18/2018	R	1	0	1	1	1	1
18	5/16/2018	R	0	1	1	0	1	1
19	6/20/2018	Cancelled						
20	7/18/2018	R	1	1	0	1	1	1
21	8/15/2018	R	1	1	1	0	1	1
22	9/21/2018	R	1	1	0	1	1	0
23	10/17/2018	R	1	0	1	0	1	1
24	11/21/2018	R	1	1	1	0	1	1
25	12/19/2018	Cancelled						
26	1/16/2019	R	1	0	1	1	1	1
27	2/20/2019	Cancelled						
28	3/20/2019	R	1	1	1	1	1	1
29	4/11/2019	R	1	1	1	1	1	1
30	5/15/2019	R	0	1	1	1	1	1
31	6/19/2019	R	1	0	1	1	1	1
32	7/17/2019	Cancelled						
33	8/21/2019	R	1	1	1	1	1	1
34	9/18/2019	R	1	1	0	1	0	0
35	10/28/2019	R	0	1	1	1	1	1
36	11/20/2019	R	1	1	0	1	1	1
37	12/18/2019	R	1	1	1	0	0	1
38	1/15/2020	R	1	0	1	0	1	
39	2/19/2020	Cancelled						
40	3/18/2020	Virtual	1	1	1	1	1	
41	4/29/2020	Virtual	1	1	0	0	1	
	TOTAL	**21**	**18**	**16**	**16**	**14**	**19**	**16**
	ATTENDANCE %		**86%**	**76%**	**76%**	**67%**	**90%**	**89%**

TYPE MEETING: **R** = Regular Scheduled Meeting **C** = Called Meeting

ATTENDANCE: **0** = Absent **1** = Attended

NOTES:

Submitted By: Shanna Kennedy for Beth Brown **Date:** 5/5/2020

Recording Secretary

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: March 20, 2020 Called Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: March 23, 2020 Called Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: March 27, 2020 Called Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: April 1, 2020 Called Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: April 3, 2020 Called Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/12/2020

Presenter: Denise Jordan

Item of Business: April 21, 2020 Mayor/Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this request is to allow the governing body to approve the referenced meeting minutes.

History/Background:

Facts & Issues for Consideration:

The referenced draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/15/2020

Presenter: Denise Jordan

Item of Business: April 30, 2020 Work Session

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this meeting is to allow the governing body to approve the minutes from the referenced meeting.

History/Background:

Facts & Issues for Consideration:

Draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/14/2020

Presenter: Denise Jordan

Item of Business: May 5, 2020 Mayor/Council Meeting

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this request is to allow the governing body to approve the referenced meeting minutes.

History/Background:

Facts & Issues for Consideration:

The referenced draft minutes were distributed to the governing body, City Manager, City Attorney and Department Directors for comments/corrections.

Department Recommendation:

Approve the minutes accepting edits as presented.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

N/A

Amount Requested:

Source of Funds:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/7/2020

Presenter: Bryan Lackey

Item of Business: PR-2020-05 Bureau of Justice Assistance Coronavirus Emergency Supplemental Funding Program Grant

Meeting Date: 5/19/2020

Purpose of Request:

Accept the grant of $43,680 from BJA Coronavirus Emergency Supplemental Funding Program to purchase supplies and equipment to combat the spread of coronavirus.

History/Background:

Facts & Issues for Consideration:

Department Recommendation:

Accept the grant of $43,680 from BJA Coronavirus Emergency Supplemental Funding Program to purchase supplies and equipment to combat the spread of coronavirus.

Department Director:

Jay Parrish

If funding is involved, are funds approved within the current budget?

Amount Requested:

$43,680

Source of Funds:

Bureau of Justice Assistance Coronavirus Emergency Supplemental Funding Program

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
PR-2020-05 BJA Coronavirus Emergency Supplemental Funding Program Grant	Resolution

RESOLUTION PR-2020-05

BUREAU OF JUSTICE ASSISTANCE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING PROGRAM GRANT

WHEREAS, the Bureau of Justice Assistance (BJA) Coronavirus Emergency Supplemental Funding Program has selected the City of Gainesville Police Department for a grant in the amount $43,680 to purchase supplies and equipment to combat the spread of coronavirus; and

WHEREAS, the City of Gainesville Police Department desires to use such funds to purchase supplies and equipment to combat the spread of coronavirus.

NOW, THEREFORE, BE IT RESOLVED THAT the governing body for the City of Gainesville hereby authorizes the City of Gainesville Police Department to accept said BJA Coronavirus Emergency Supplemental Funding Program grant.

Adopted this _____ day of _____, 2020.

_____
C. Danny Dunagan, Jr., Mayor

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

ATTEST:

_____
Denise O. Jordan, City Clerk

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 5/7/2020

Presenter: Angela Sheppard

Item of Business: **Ordinance 2020-09**
Amend Chapter 6-16 Entitled Licenses Permits and Business Requirements
AN ORDINANCE TO AMEND CHAPTER 6-16 ENTITLED LICENSES, PERMITS AND BUSINESS REQUIREMENTS OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO PROVIDE FOR THE APPLICATION, APPROVAL AND ENFORCEMENT OF PAWNBROKERS AND SECOND HAND DEALER OPERATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Meeting Date: 5/19/2020

Purpose of Request:

To amend Chapter 6-16 known as the "Pawnbroker and Secondhand Dealer Ordinance". This amendment deletes references to the "City Marshal" and replaces it with "City Manager or designee." This amendment also allows administrative approval of pawn shop applications, instead of requiring action by City Council. Finally this amendment gives the Code Enforcement Division authorization to enforce provisions of this ordinance, along with the Police Department.

History/Background:

This ordinance was last updated in 2012. With the elimination of the "City Marshal" position, this change was necessary.

Facts & Issues for Consideration:

Department Recommendation:

Approval of the Ordinance No. 2020-09.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
Ordinance to Amend Chapter 6-16	Ordinance
Ordinance Amendment-Redline Version	Backup Material

Passed: _____

AN ORDINANCE

No. 2020-09

AN ORDINANCE TO AMEND CHAPTER 6-16 ENTITLED LICENSES, PERMITS AND BUSINESS REQUIREMENTS OF THE CODE OF ORDINANCES OF THE CITY OF GAINESVILLE BY ELIMINATING IT IN ITS ENTIRETY AND SUBSTITUTING IN ITS PLACE THE LANGUAGE SET FORTH BELOW; TO PROVIDE FOR THE APPLICATION, APPROVAL AND ENFORCEMENT OF PAWNBROKERS AND SECOND HAND DEALER OPERATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT HEREBY ORDAINED BY THE GOVERNING BODY OF THE CITY OF GAINESVILLE, GEORGIA, AS FOLLOWS:

SECTION I

Chapter 6-16 of the Code of the City of Gainesville, Georgia is hereby amended by eliminating it in its entirety and substituting in its place the language set forth below:

CHAPTER 6-16. - LICENSES, PERMITS AND BUSINESS REQUIREMENTS

Sec. 6-16-1. - Short title.

This chapter shall be known as the "Pawnbroker and Secondhand Dealer Ordinance".

Sec. 6-16-2. - Findings and intent.

This chapter is adopted to address the interest of public safety, health and the welfare of the community and to aid and assist in the recovery of stolen property, and to aid and assist local law enforcement in fulfilling their public safety functions. This chapter is enacted pursuant to O.C.G.A. § 44-12-130 et seq.

Sec. 6-16-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

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 (1) of the fifty (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 and description of the person.

Annual pawnshop license means an official document issued for any person, association, partnership, corporation or limited liability company, or any other entity to engage in or operate a pawnshop, or to conduct, promote, or carry on, in or upon any premises within the city, any pawnshop establishment as defined in this chapter. No license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

Business occupation tax certificate means a tax levied for revenue raising purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business.

City means the City of Gainesville, Georgia.

Code Enforcement means the Code Enforcement Division of the City of Gainesville, Georgia.

Deceptive business practice means any practices as defined in O.C.G.A. § 16-9-50.

Designee means the person assigned by the City Manager for work performed as outlined herein.

Employee permit means an official document issued for permission to be employed or work in a pawnshop regulated by the City of Gainesville, or to be a pawnbroker.

Employee means any person who works for a pawnbroker or in a pawnshop, whether on a part-time or full-time basis, regardless of whether remuneration is received or not.

Interest in a pawnshop means the identification of any person involved or any member of his or her family being the outright owner of the pawnshop; a co-owner of the pawnshop; a partner in a partnership which owns all or part of the pawnshop; or a stockholder in any corporation organized for pecuniary gain which owns all or any part of the pawnshop.

Managing agent means an owner or full-time employee that has day-to-day managerial oversight of the pawnshop and is actively engaged in the daily operations of the pawnshop and resident of the State of Georgia.

Minor means any person who has not attained the age of eighteen (18) years.

Month means that period of time from one (1) date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month.

New in box means any unused item in the original unopened, factory sealed boxes.

OCGA means Official Code of Georgia Annotated, as amended.

Pawnbroker means any person or employee 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 any business wherein a well-defined part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares, merchandise, motor vehicles, or any kind of personal property or title whatsoever, as security for the repayment of money lent thereon.

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 pledger or seller for a fixed price within a fixed period of time.

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

Pledged goods means tangible personal property, including, without limitation, glass taken from buildings such as mantel mirrors, art glass, copper wire, or any kind of plumbing materials and 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 chapter, 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 choses in action, securities, or printed evidences of indebtedness.

Police department means the Police Department of the City of Gainesville, Georgia.

Registered agent means a resident of Hall County associated with the pawnshop upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served.

Sec. 6-16-4. - Enforcement.

The Police Department and Code Enforcement Division of the City of Gainesville, Georgia, shall see that the provisions of this chapter are observed and enforced.

Sec. 6-16-5. - General policies and purposes.

(a) Pawnbrokers may operate only after the issuance of a license for such operation by the city and only in the manner permitted by such license. Pawn transactions may only occur through a licensee who complies with the rules and regulations of this chapter and with the laws, licensing, regulatory and revenue requirements of the State of Georgia.

(b) All licenses are a mere grant or privilege subject to all terms and conditions imposed by this chapter and state law and subject to being revoked by the city.

(c) Each licensee of the city shall display the license issued under this chapter prominently at all times at the location for which the license is issued. A separate license must be issued for each location and a separate application must be made for each location.

(d) It is not the intent of this chapter to regulate traditional secondhand dealers of property where no pawn transaction occurs.

Sec. 6-16-6. - Qualifications for issuance of annual pawnshop license.

Any person who desires to obtain a license for the operation of a pawnshop must meet the minimum qualifications set forth in this chapter. If the applicant is a partnership, each partner must meet the qualifications of any individual license and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation, the majority stockholder and each principle officer of the corporation must meet the qualifications as part of the application process.

1) Any person applying to operate a pawnshop for which a license is sought shall not have been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city and shall not have been convicted of any crime involving a felony theft, burglary, robbery, or fraud, or have been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, for a period of ten (10) years from the date of such convictions, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

2) Every managing agent applicant for a license shall be at least eighteen (18) years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the State of Georgia, and shall make application on forms furnished by the City and in connection therewith, shall, under oath, answer all questions, supply all information and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

3) All licensed pawnshops must have and continuously maintain in Hall County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of Hall County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the city in such form as may be prescribed.

4) All persons filing an application for a license will be required to complete a waiver in order for the applicant's criminal history to be obtained.

5) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any pawnshop in the city unless a full description of such interest is disclosed upon the filing of an application for the original annual license. Said person shall be subject to the same qualifications as the license holder. Failure to qualify may be grounds for revocation of the license.

6) The city manager or designee may approve all applications for renewal of an existing license upon payment of the license fees for renewal of licenses, where no objections have been filed and the application clearly shows no change in the

ownership, managing agent, location, or operation of the business. If objections have been filed or if there have been any changes in the ownership, managing agent, location, or operation of the business, a new application must be approved by the city manager or designee. The city license issued shall be valid for the calendar year indicated thereon and shall expire at midnight December 31 each year unless renewed by the city manager or designee prior to expiration. Renewal licenses for subsequent calendar years become effective upon approval of the city manager or designee. A licensee that desires to continue in business during the next or subsequent calendar year must make application for and pay the required fees each year, on or before December 1.

7) No license shall be granted where the applicant has had any pawnshop license issued by any county, municipality, or other governmental subdivision which has been suspended or revoked.

8) No license shall be granted for a location that is not in compliance with all federal, state, or local regulation, rule or ordinance.

9) No license shall be issued where the applicant has supplied false information in the license application or where any required fee has not been paid by such applicant, including any fees or assessments owed to the city.

Sec. 6-16-7. - Annual pawnshop license application.

Before operating a pawnshop any person desiring to do so shall first file an application for a license with the City of Gainesville to operate a pawnshop, pursuant to the following:

1) The application shall be made on an annual basis.

2) All applications for a license shall be made in person by the applicant in writing on forms furnished by the City, the same shall be required on all owners, interest holders and partners, a signed affidavit by the applicant shall contain but not be restricted to the following statements and information:

   a. The applicant(s)'s full true and legal name(s) and any other aliases or name changes used in the last five (5) years.

   b. The telephone number, present address and length of residency of the applicant(s).

   c. Acceptable written proof that the applicant(s) is at least eighteen (18) years of age.

   d. Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of the application.

   e. The pawnshop permit history of the applicant(s) and whether, in previous operations in this or any other city, state or territory, the applicant(s) has had such permit revoked or suspended. If such permit has been revoked or suspended, the applicant(s) must state the reason, and the business activity or occupation subsequent to such action of suspension or revocation.

f. If the owner(s) 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 owner(s) is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the owner(s) is a limited partnership, it shall furnish a copy of its certificate filed with the county clerk or secretary of state. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.

g. If any of the owners, partners or interest holders have been convicted of any crime in the past ten years, a completed description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of the disposition have been fully completed.

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

i. Address of premises to be regulated.

j. Whether the premises are owned or rented and must provide a copy of the deed or rental agreement.

k. Each application for a license shall be verified and acknowledged under oath to be true and correct by all owners, partners and interest holders.

l. The applicant must disclose any ownership interest in any other pawnshop, whether it is located locally or out of state and must disclose the nature of such ownership interest.

m. Each applicant shall certify on the application that they have read this chapter and, if the license is granted, each licensee shall maintain a copy of this chapter on the premises.

n. Any other information that may be required by the city manager, designee,or police department to include, but not limited to, source of financing and any other information obtained during the investigative process for the business operation.

3) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.

4) No license shall be issued until a fee in an amount established by action of the city council, as provided in title 10, is paid to the city by the applicant.

5) The city manager or designee shall investigate each applicant for such license to determine whether such applicant is a person of good character and has not been convicted of a criminal offense as indicated in this chapter. All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such

request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such license, as may be required by the city manager or designee. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.

6) No pawnbroker shall move from the location specified on its license until a change of location fee of one hundred dollars ($100.00) has been paid to the city and approval has been obtained from the city manager or designee. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.

7) In the event the "managing agent" changes, the licensee shall notify the city within five (5) days of the change. A fee of one hundred dollars ($100.00) will be charged for the processing of an application for the change of the "managing agent," and such applicant must be approved by the city manager or designee. If the applicant does not meet the qualifications for managing agent as required by this chapter and the application is denied, the applicant may appeal the decision of the city manager or designee as set out in section 6-16-18.

8) In the event the "registered agent" changes, the licensee shall notify the city within five (5) days of the change. A fee of twenty-five dollars ($25.00) will be charged for the processing of a change in the "registered agent."

9) No pawnbroker shall operate, conduct, manage, engage in, or carry on a pawnbroker business under any name other than the name of the business as specified on the license.

10) The owner shall notify the city manager or designee and the police department of any change in the information, material or data set out in the original application.

11) Any applicant who is denied a license may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 6-16-18.

12) The city manager or designee shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation, the license shall be issued in the name of the corporation. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one (1) of the partners. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be one-half (½) the annual license fee. License fees are not refundable once paid to the city.

Sec. 6-16-8. - Annual employee permit application.

All persons before being employed at a pawnshop 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 a permit to work in such business. The issuance of

such permit by the police department will be based on a criminal history and background investigation of the applicant. A non-refundable fee as designated in title 10 of the Code must be paid at the time of filing the notice of intended employment with a pawnshop and for the renewal of the permit thereafter. The amount of the fee shall be calculated by the city to reimburse it for the time and expense of investigating each applicant for employment, and any other costs to the city necessitated by the permit process. The fee is non-refundable in the event an applicant, for any reason, is not issued an employee permit. The permit will expire at midnight one (1) year from the date of issuance.

1) All required applications for an annual license shall be in writing and on forms provided by the police department that require the applicant's full name, current address, Social Security Number, date of birth, birth place, race, sex, telephone number, aliases, nationality, driver's license number, addresses for the last five (5) years, business occupation and employment history for the last five (5) years, proof of age, and complete information concerning the conviction of any crime within the past five (5) years. Each applicant must be photographed by the police department. The police department shall have forty-five (45) days to investigate the information submitted by the applicant. If the applicant has not been convicted of a criminal offense as indicated in this chapter and if the applicant has not falsified the application or failed to disclose information required on the application, the police department shall grant an approval of employment; and issue an annual personal identification card authorizing the person to be employed by a pawnshop. The permit shall be with the employee when the employee is on the licensed premises.

2) Every employee must disclose any ownership or interest in any other pawnshop, whether it is located locally or out of state and must disclose the nature of such ownership or interest as defined in this chapter.

3) Employees of a pawnshop, as defined herein, shall not be less than eighteen (18) years of age. Any employee who has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or any felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed in this state, would have been punishable as one (1) or more of the above-mentioned offenses, shall not be issued a permit to work on the premises of a pawnshop for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

4) All applications shall be completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths.

5) All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such permit, as may be required by, the police department. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.

6) All permits issued through administrative error can be terminated and seized by the police department.

7) Replacements permits will be issued within thirty (30) days of original date, upon paying one-half (½) of the fee charged for the original pawnshop permits. After thirty (30) days of original application date, a new application and fee must be submitted.

8) All permits issued hereunder remain the property of the police department, and shall be produced for inspection upon the demand of any officer of the police department or code enforcement division.

9) No pawnshop owner shall allow any employee or manager to work on the premises unless the employee or manager has in their possession a current valid city permit. Upon the filing of the notice with the police department, the applicant may become a conditional employee and work on the licensed premises with a receipt issued by the police department until such time the investigation is completed and approval or denial of the permit is issued.

10) For the purpose of this section, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or managing agent of any pawnshop.

11) Employee permits are nontransferable and are valid only for the individual named on the permit. Each such permit is valid for the individual named while employed in any establishment licensed in the city.

12) Permits issued under this section shall be active for a period of one (1) year. At the expiration of one (1) year from the date of the issuance of the permit, it shall be the duty of the employee to renew the permit by going through the process described in this section. In addition, employees who cease employment with a pawn shop establishment with which they were employed when their permit was obtained for a period of six (6) months or more must also renew their permit before returning to a pawn shop establishment in the city. Renewal permits fees shall be one-half (½) of the fee charged for the original permits. After thirty (30) days of the original application date, a new application and fee must be submitted.

13) Employees after receiving their permit must notify the police department of any changes involving information originally provided to obtain an employee permit; otherwise, their permit is invalid. Employees who are convicted of an offense that may affect their employment under this chapter are under a duty to fully inform the police department of any such conviction, and to supply sufficient documentation relating to the conviction to allow the city to fully investigate it. The failure to inform

the police department and/or provide documentation of any such conviction invalidates an employee's permit and shall serve as automatic forfeiture and cancellation of the permit.

14) It shall also be the duty of the pawn broker to file with the the police department, on a monthly basis, a report which lists all employees currently employed in a capacity that would require an employee permit. Each such report shall include the name and date of birth of all such individuals, as well as the same information on all such individuals who have terminated employment during the one-month employment period. Failure to submit said report by the twentieth day each month shall constitute a violation of this Code.

15) Any applicant who is denied a permit may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 6-16-18.

Sec. 6-16-9. - Commencement for business—Forfeiture of license.

(a) All holders of licenses under this chapter shall, within six (6) months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the city manager or designee. Failure to open the licensed establishment as referred to in this subsection within the six-month period shall serve as an automatic forfeiture and cancellation of the license, and no refund of license fees shall be made to the license holder.

(b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three (3) consecutive months thereafter cease to operate the business as authorized in the license, shall automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action by the city manager or designee.

Sec. 6-16-10. - License transfer.

No license granted for a pawnshop shall be transferable except upon application to the city manager or designee in the same form and manner, and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred only to another applicant doing the same business at the same location as the license holder to whom the license was originally issued provided and excepting, however, that if the license holder is a partnership and one (1) or more of the partners should die, one (1) 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 license, and in such case, the license upon notification to the city shall be placed in the name of the surviving partner. When permission for transfer has been granted, the original licensee or transferee shall cease doing business and deliver the license to the city manager or designee, who shall record such transfer, and the transferee shall pay a fee therefore as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established from time to time by the city council.

Sec. 6-16-11. - Record of transactions.

(a) Every pawnbroker shall maintain a permanent electronic record of its pawn transactions in which an accurate description of all property pledged, traded or sold to the pawnshop can be transmitted to the police department via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnbroker and shall be made at the time of each transaction, provided that the following information is included:

1) The date and time of the purchase, pawn or sale of the property.

2) The full name, street address and telephone number of the customer making the pledge, trade or sale.

3) The pawnshop shall require all persons pledging, trading, pawning, exchanging, or selling property to show accepted identification as defined in section 6-16-3 prior to conducting a pawnshop transaction.

4) A description of the customer in terms of sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.

5) A description of the pledged or purchased property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).

6) The number of the receipt or pawn transaction issued for the property pawned or bought.

7) The price paid or the amount loaned.

8) The maturity date of the transaction, if a pawn.

9) A photograph of the customer and the item pawned or bought which will be taken with the electronic automated reporting system at the time of the transaction.

10) The pawnshop shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right-hand index finger, unless such finger is missing, in which 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. An electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one (1) pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.

11) The signature of the customer.

12) The tag bearing the pawnshop transaction number must remain attached to the item 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 or distributor businesses for the purpose of retail sales; however the pawnshop shall

be required to maintain all purchasing records for property exempted from this paragraph.

(b) Every pawnbroker shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the police department.

(c) The pawnshop shall store the above records, digital images, and fingerprints for a period as designated by state statute and make them available to law enforcement personnel upon request.

(d) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, or the system is terminated pawnbrokers will be notified as soon as possible, by the administrator of the system. Pawnshops that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting, should immediately notify the police department with the reason of the failure. In these events, the pawnbrokers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this section. Pawnbrokers shall maintain a three-day supply of these paper forms. On a daily basis, all transactions not reported in the electronic automated reporting system, will be delivered to the police department by the pawnshop within twenty four (24) hours of the end of the business day for every day until the event has been corrected.

(e) Any duly authorized law enforcement officer authorized by the chief of police, may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic or paper records or any goods in his possession at the pawnbroker's place of business to ensure compliance not only with this section, but this chapter and state law.

(f) The chief of police or his designee shall select and designate the required automated reporting system and required equipment needed. A fee will be assessed to each pawnshop for each reported transaction: said fee shall be an amount set by the chief of police equal to that charged by the administrator of the automated reporting system. The assessed fee to the pawnshops shall not exceed the actual cost charged by the City of Gainesville or by the third-party administrator. This fee will be invoiced to the pawnbroker and collected by the chief of police or his designee, which may be a third-party administrator of the automated reporting system.

Sec. 6-16-12. - Disposal of articles.

Any pawnbroker or employee of a pawnshop who makes a loan on pledged goods, or buys pledged goods on the condition that the seller may repurchase said goods, shall hold said goods for at least thirty (30) days or longer if directed by the police department, before disposing of them by sale, transfer, shipment or otherwise. Non-pledged goods bought under this section shall be held for at least seven (7) calendar days before disposing of them by sale, transfer, shipment or otherwise.

Sec. 6-16-13. - Miscellaneous.

(a) It shall be unlawful for any pawnbroker or employee of a pawnbroker to receive goods in pawn, trade, purchase or sale from a person under eighteen (18) years of age.

(b) It shall be unlawful for any pawnbroker to receive in pawn, pledge or sale, goods of any character or description any item which is a new in box item unless a receipt or other proof of purchase is provided.

(c) (1) No employee of the city who has any interest in a pawnshop, as defined herein, shall be assigned to work in any area or division of the city which regulates the business of pawnshops.

(2) No employee of the city with regulating authority may own, work in or be employed (paid or unpaid) by a pawnshop inside the city limits of the city. Regulating authority, for purposes of this section, is defined as any person involved in or assigned to the inspection of the premises, approval of the occupation tax certificate applications, annual pawnshop license applications, or annual employee permit applications; and granting or denying of such applications, or enforcement of this chapter and its provisions.

(3) No employee of the city with regulating authority as defined herein, may regulate a pawnshop where such is owned or operated by any person related to the employee of the city within a third degree of kinship. The term third-degree kinship shall include, for purposes of this chapter, children, grandchildren, mother, father, brothers and sisters, aunts and uncles, first cousins and in-laws.

(4) The definition of employees of the city does not include elected officials of the city.

(d) Reserved.

(e) A pawnbroker selling goods other than those pledged may add new merchandise to its stock of the same type as that on which loans are made, up to a value of one thousand dollars ($1,000.00) per month, without having to pay an additional occupation tax as would otherwise be imposed according to the terms of the business taxes of the city. The pawnbroker must maintain all records, invoices, and bills of sale for such merchandise which shall be subject to inspection and review by any duly authorized law enforcement. No article(s) shall be maintained on the premises for sale on a consignment basis for any citizen, employee or pawnbroker.

Sec. 6-16-14. - Reserved.

Sec. 6-16-15. - Lost or stolen items.

(a) It shall be the duty of every person operating or employed by a pawnbroker to report to the police department any article or goods sold or pawned to the pawnbroker if that person shall have a reason to believe that the article or goods was stolen or lost when presented by the seller or customer.

(b) With respect to any item(s) which would normally have a serial number or other means of identification, any pawnbroker or employee of a pawnbroker who becomes aware that such

items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the police department.

(c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his employee is the subject of any reported theft, then the surrender of said item to the police department shall be done upon demand. The police officer receiving the item shall give the pawnbroker a receipt for the item.

(d) The police department has the authority to place property that is the subject of police investigation on "police hold". In that event, the police department shall notify the pawnshop of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the pawnshop to maintain the subject property until such time as the property is released from the police hold status or the property is confiscated as evidence.

Sec. 6-16-16. - Denial, transfer, suspension, revocation or forfeiture of annual pawnshop license.

Denial, immediate suspension, revocation, or forfeiture of an issued license shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 6-16-18, appeal procedure, and only on the following occurrences:

1) Any license issued under this chapter for a pawnbroker shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet, pawnbroker or property therein.

2) A license application may be denied to any applicant where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

3) Except as provided in the transfers, section 6-16-10, transfers, any change in the ownership of any entity owning a licensed location shall be grounds for the city manager or designee to revoke any license issued under this chapter.

4) A license shall be immediately suspended or revoked by the city manager or designee upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this chapter and the Code of Ordinances of the city, or engages in deceptive business practices as defined in this chapter.

5) The license of any licensee does not meet the qualifications set forth in this chapter at any time such information becomes known to the city manager or designee.

6) The pawnbroker has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned

offenses, within ten (10) years of the date of such conviction unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 6-16-17. - Denial, suspension, revocation or forfeiture of annual employee permit.

Denial, immediate suspension, revocation, or forfeiture of an issued permit shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 6-16-18, appeal procedure, and only upon the following occurrences:

(1) The pawnshop employee has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, within five (5) years from the date of such conviction, unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 6-16-18. - Annual pawnshop license and annual employee permit appeal procedure.

Any pawnbroker whose license or any employee whose permit has been denied, suspended, revoked, or forfeited, may appeal same by filing a notice of appeal with the city manager or designee, in cases involving annual pawnshop licenses, or to the police department in cases involving annual employee permits, within ten (10) business days of the date on which the applicant is notified of same. The notice of appeal shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof) the grounds or basis for the appeal, the action requested, the name and address of the applicant, and the reasons why the license or permit should not be denied, suspended, revoked or forfeited. The city manager or designee, in cases involving annual pawnshop licenses, or the police department in cases involving annual employee permits, shall schedule a hearing before the administrative hearing officer at a time and place not more than thirty (30) calendar days after receiving the notice of appeal. At the hearing, the applicant shall have the opportunity to present argument and evidence as to why the annual pawnshop license or annual employee permit should be approved or should not be denied,

suspended, revoked or forfeited. The city manager, designee, or police department shall also be given the opportunity to present argument and evidence as to why the license or permit should not be approved, or should be denied, suspended, revoked or forfeited. The administrative hearing officer shall not be bound by the traditional rules of evidence in the hearing, but the rules governing evidence in administrative hearings shall apply. Both parties shall be afforded the opportunity to present evidence and cross-examine witnesses. The administrative hearing officer shall have the power to rule on the admissibility of evidence, hear testimony under oath, and consider documents and other tangible evidence presented.

The administrative hearing officer shall either approve issuance of a license, or permit or the suspension, revocation or forfeiture of the license or permit in writing and shall issue findings of fact with the reasons supporting his decision within fifteen (15) days of the conclusion of the hearing. The decision of the hearing officer shall be mailed or delivered to the appellant. If the hearing is not held within forty-five (45) days as provided herein, or the decision is not rendered within fifteen (15) days of the conclusion of the hearing as provided herein, then the applicant's license or permit shall be deemed to remain in effect, or if applicable the appellant's license or permit shall not be denied, suspended, revoked or forfeited unless the parties agree to a continuance, or the administrative hearing officer requests a continuance for good cause shown.

The appellant or the city shall have the right to appeal the decision of the administrative hearing officer to the Superior Court of Hall County, Georgia, via certiorari as provided by Georgia law.

Sec. 6-16-19. - Violations.

(a) It shall be unlawful for any pawnbroker or employee of a pawnbroker to violate any of the provisions of this chapter, whether or not such person or employee is the holder of a current valid license or permit issued according to the terms of this chapter. Further, any person failing to comply with any provision of this chapter or other rules, ordinances and regulations as may be passed by the city council for conduct of the business of a pawnbroker, shall upon conviction, have the license or permit to conduct business revoked.

(b) It shall be unlawful for any pawnbroker or employee of a pawnbroker to:

(1) Make any false statement in an application for any license or permit provided for in this chapter.

(2) Make any false entry in any record book, ledger or form required by the terms of this chapter.

(3) Violate any criminal law of this state while acting in the course of business as a pawnbroker or employee of a pawnbroker.

(c) Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and shall be punished accordingly.

SECTION II

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION III

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

SECTION IV

The effective date of this ordinance shall be upon approval by the governing body of the City of Gainesville.

C. Danny Dunagan, Jr., Mayor

This is to certify that I am City Clerk of the City of Gainesville. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Denise O. Jordan, City Clerk

CHAPTER 6-16. - LICENSES, PERMITS AND BUSINESS REQUIREMENTS

Sec. 6-16-1. - Short title.

This chapter shall be known as the "Pawnbroker and Secondhand Dealer Ordinance".

Sec. 6-16-2. - Findings and intent.

This chapter is adopted to address the interest of public safety, health and the welfare of the community and to aid and assist in the recovery of stolen property, and to aid and assist local law enforcement in fulfilling their public safety functions. This chapter is enacted pursuant to O.C.G.A. § 44-12-130 et seq.

Sec. 6-16-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

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 (1) of the fifty (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 and description of the person.

Annual pawnshop license means an official document issued for any person, association, partnership, corporation or limited liability company, or any other entity to engage in or operate a pawnshop, or to conduct, promote, or carry on, in or upon any premises within the city, any pawnshop establishment as defined in this chapter. No license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

Business occupation tax certificate means a tax levied for revenue raising purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business.

City means the City of Gainesville, Georgia.

~~*City marshal* means the Marshal's Office of the City of Gainesville, Georgia.~~

Code Enforcement means the Code Enforcement Division~~epartment~~ of the City of Gainesville, Georgia.

Deceptive business practice means any practices as defined in O.C.G.A. § 16-9-50.

Designee means the person assigned by the City Manager for work performed as outlined herein.

Employee permit means an official document issued for permission to be employed or work in a pawnshop regulated by the City of Gainesville, or to be a pawnbroker.

Employee means any person who works for a pawnbroker or in a pawnshop, whether on a part-time or full-time basis, regardless of whether remuneration is received or not.

Interest in a pawnshop means the identification of any person involved or any member of his or her family being the outright owner of the pawnshop; a co-owner of the pawnshop; a partner in a partnership which owns all or part of the pawnshop; or a stockholder in any corporation organized for pecuniary gain which owns all or any part of the pawnshop.

Managing agent means an owner or full-time employee that has day-to-day managerial oversight of the pawnshop and is actively engaged in the daily operations of the pawnshop and resident of the State of Georgia.

Minor means any person who has not attained the age of eighteen (18) years.

Month means that period of time from one (1) date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month.

New in box means any unused item in the original unopened, factory sealed boxes.

OCGA means Official Code of Georgia Annotated, as amended.

Pawnbroker means any person or employee 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 any business wherein a well-defined part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares, merchandise, motor vehicles, or any kind of personal property or title whatsoever, as security for the repayment of money lent thereon.

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 pledger or seller for a fixed price within a fixed period of time.

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

Pledged goods means tangible personal property, including, without limitation, glass taken from buildings such as mantel mirrors, art glass, copper wire, or any kind of plumbing materials and 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 chapter, 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 choses in action, securities, or printed evidences of indebtedness.

Police department means the Police Department of the City of Gainesville, Georgia.

Registered agent means a resident of Hall County associated with the pawnshop upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served.

Sec. 6-16-4. - Enforcement.

The Police Department and Code Enforcement Division of the City of Gainesville, Georgia, ~~and the Code Enforcement City Marshal of the City of Gainesville, Georgia,~~ shall see that the provisions of this chapter are observed and enforced.

Sec. 6-16-5. - General policies and purposes.

(a) Pawnbrokers may operate only after the issuance of a license for such operation by the city and only in the manner permitted by such license. Pawn transactions may only occur through a licensee who complies with the rules and regulations of this chapter and with the laws, licensing, regulatory and revenue requirements of the State of Georgia.

(b) All licenses are a mere grant or privilege subject to all terms and conditions imposed by this chapter and state law and subject to being revoked by the city.

(c) Each licensee of the city shall display the license issued under this chapter prominently at all times at the location for which the license is issued. A separate license must be issued for each location and a separate application must be made for each location.

(d) It is not the intent of this chapter to regulate traditional secondhand dealers of property where no pawn transaction occurs.

Sec. 6-16-6. - Qualifications for issuance of annual pawnshop license.

Any person who desires to obtain a license for the operation of a pawnshop must meet the minimum qualifications set forth in this chapter. If the applicant is a partnership, each partner must meet the qualifications of any individual license and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation, the majority stockholder and each principle officer of the corporation must meet the qualifications as part of the application process.

(1) Any person applying to operate a pawnshop for which a license is sought shall not have been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city and shall not have been convicted of any crime involving a felony theft, burglary, robbery, or fraud, or have been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, for a period of ten (10) years from the date of such convictions, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(2 Every managing agent applicant for a license shall be at least eighteen (18) years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the State of Georgia, and shall make application on forms furnished by the ~~city marshal~~ City and in connection therewith, shall, under oath, answer all questions, supply all information and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

(3 All licensed pawnshops must have and continuously maintain in Hall County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of Hall County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the city in such form as may be prescribed.

(4 All persons filing an application for a license will be required to complete a waiver in order for the applicant's criminal history to be obtained.

(5) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any pawnshop in the city unless a full description of such interest is disclosed upon the filing of an application for the original annual license. Said person shall be subject to the same qualifications as the license holder. Failure to qualify may be grounds for revocation of the license.

(6) The ~~city marshal~~ city manager ~~and~~or ~~-~~designee may approve all applications for renewal of an existing license upon payment of the license fees for renewal of licenses, where no objections

have been filed and the application clearly shows no change in the ownership, managing agent, location, or operation of the business. If objections have been filed or if there have been any changes in the ownership, managing agent, location, or operation of the business, a new application must be approved by the ~~city council~~ city manager ~~and~~or designee. The city license issued shall be valid for the calendar year indicated thereon and shall expire at midnight December 31 each year unless renewed by the ~~city marshal~~ city manager ~~and~~or designee prior to expiration. Renewal licenses for subsequent calendar years become effective upon approval of the ~~city marshal~~ city manager or designee. A licensee that desires to continue in business during the next or subsequent calendar year must make application for and pay the required fees each year, on or before December 1.

(7) No license shall be granted where the applicant has had any pawnshop license issued by any county, municipality, or other governmental subdivision which has been suspended or revoked.

(8) No license shall be granted for a location that is not in compliance with all federal, state, or local regulation, rule or ordinance.

(9) No license shall be issued where the applicant has supplied false information in the license application or where any required fee has not been paid by such applicant, including any fees or assessments owed to the city.

Sec. 6-16-7. - Annual pawnshop license application.

Before operating a pawnshop any person desiring to do so shall first file an application for a license with the City of Gainesville ~~City Marshal~~ to operate a pawnshop, pursuant to the following:

(1) The application shall be made on an annual basis.

(2) All applications for a license shall be made in person by the applicant ~~to the city marshal~~ in writing on forms furnished by the ~~city marshal~~City, the same shall be required on all owners, interest holders and partners, a signed affidavit by the applicant shall contain but not be restricted to the following statements and information:

a. The applicant(s)'s full true and legal name(s) and any other aliases or name changes used in the last five (5) years.

b. The telephone number, present address and length of residency of the applicant(s).

c. Acceptable written proof that the applicant(s) is at least eighteen (18) years of age.

d. Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of the application.

e. The pawnshop permit history of the applicant(s) and whether, in previous operations in this or any other city, state or territory, the applicant(s) has had such permit revoked or suspended. If such permit has been revoked or suspended, the applicant(s) must state the reason, and the business activity or occupation subsequent to such action of suspension or revocation.

f. If the owner(s) 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 owner(s) is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the owner(s) is a limited partnership, it shall furnish a copy of its certificate filed with the county clerk or secretary of state. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.

g. If any of the owners, partners or interest holders have been convicted of any crime in the past ten years, a completed description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of the disposition have been fully completed.

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

i. Address of premises to be regulated.

j. Whether the premises are owned or rented and must provide a copy of the deed or rental agreement.

k. Each application for a license shall be verified and acknowledged under oath to be true and correct by all owners, partners and interest holders.

l. The applicant must disclose any ownership interest in any other pawnshop, whether it is located locally or out of state and must disclose the nature of such ownership interest.

m. Each applicant shall certify on the application that they have read this chapter and, if the license is granted, each licensee shall maintain a copy of this chapter on the premises.

n. Any other information that may be required by the ~~city marshal~~ city manager, designee, or police department to include, but not limited to, source of financing and any other information obtained during the investigative process for the business operation.

(3) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.

(4) No license shall be issued until a fee in an amount established by action of the city council, as provided in title 10, is paid to the city by the applicant.

(5) The ~~city marshal~~ city manager or designee shall investigate each applicant for such license to determine ~~and shall report to the city council~~ whether such applicant is a person of good character and has not been convicted of a criminal offense as indicated in this chapter. All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such license, as may be required by the ~~city council, the city marshal, or other official designated by the city council~~ city manager or designee. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.

(6) No pawnbroker shall move from the location specified on its license until a change of location fee of one hundred dollars ($100.00)~~,~~ has been paid to the city and approval has been obtained from the ~~city marshal~~ city manager or designee. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.

(7) In the event the "managing agent" changes, the licensee shall notify the city within five (5) days of the change. A fee of one hundred dollars ($100.00) will be charged for the processing of an application for the change of the "managing agent," and such applicant must be approved by the ~~city marshal~~ city manager or designee. If the applicant does not meet the qualifications for

managing agent as required by this chapter and the application is denied, the applicant may appeal the decision of the ~~city marshal~~ city manager or designee as set out in section 6-16-18.

(8) In the event the "registered agent" changes, the licensee shall notify the city within five (5) days of the change. A fee of twenty-five dollars ($25.00) will be charged for the processing of a change in the "registered agent."

(9) No pawnbroker shall operate, conduct, manage, engage in, or carry on a pawnbroker business under any name other than the name of the business as specified on the license.

(10) The owner shall notify the city manager or designee ~~city marshal~~ and the police department of any change in the information, material or data set out in the original application.

~~(11) Upon completion of the review of the application by the city marshal the matter shall be placed on an agenda for mayor and council who may grant or deny the application consistent with this chapter. No application shall be acted upon by the city council until a notice of such application in a local newspaper is published for at least four (4) different days prior to the regular meeting at which such application is to be presented and considered.~~

~~(12) No application shall be acted upon by the city council except at a regular meeting of the council.~~

(13) Any applicant who is denied a license may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 6-16-18.

(14) ~~Upon approval by the city council of the application for a license~~, T~~t~~he ~~city marshal~~ city manager or designee shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation, the license shall be issued in the name of the corporation. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one (1) of the partners. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be one-half (½) the annual license fee. License fees are not refundable once paid to the city.

Sec. 6-16-8. - Annual employee permit application.

All persons before being employed at a pawnshop 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 a permit to work in such business. The issuance of such permit by the police department will be based on a criminal history and background investigation of the applicant. A non-refundable fee as designated in title 10 of the Code must be paid at the time of filing the notice of intended employment with a pawnshop and for the renewal of the permit thereafter. The amount of the fee shall be calculated by the city to reimburse it for the time and expense of investigating each applicant for employment, and any other costs to the city necessitated by the permit process. The fee is non-refundable in the event an applicant, for any reason, is not issued an employee permit. The permit will expire at midnight one (1) year from the date of issuance.

(1) All required applications for an annual license shall be in writing and on forms provided by the police department that require the applicant's full name, current address, Social Security Number, date of birth, birth place, race, sex, telephone number, aliases, nationality, driver's license number, addresses for the last five (5) years, business occupation and employment history for the last five (5) years, proof of age, and complete information concerning the conviction of any crime within the past five (5) years. Each applicant must be photographed by the police department. The police department shall have forty-five (45) days to investigate the

information submitted by the applicant. If the applicant has not been convicted of a criminal offense as indicated in this chapter and if the applicant has not falsified the application or failed to disclose information required on the application, the police department shall grant an approval of employment; and issue an annual personal identification card authorizing the person to be employed by a pawnshop. The permit shall be with the employee when the employee is on the licensed premises.

(2) Every employee must disclose any ownership or interest in any other pawnshop, whether it is located locally or out of state and must disclose the nature of such ownership or interest as defined in this chapter.

(3) Employees of a pawnshop, as defined herein, shall not be less than eighteen (18) years of age. Any employee who has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or any felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed in this state, would have been punishable as one (1) or more of the above-mentioned offenses, shall not be issued a permit to work on the premises of a pawnshop for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(4) All applications shall be completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths.

(5) All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such permit, as may be required by, the police department. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.

(6) All permits issued through administrative error can be terminated and seized by the police department.

(7) Replacements permits will be issued within thirty (30) days of original date, upon paying one-half (½) of the fee charged for the original pawnshop permits. After thirty (30) days of original application date, a new application and fee must be submitted.

(8) All permits issued hereunder remain the property of the police department, and shall be produced for inspection upon the demand of any officer of the police department or ~~city marshal.~~ code enforcement division.

(9) No pawnshop owner shall allow any employee or manager to work on the premises unless the employee or manager has in their possession a current valid city permit. Upon the filing of the notice with the police department, the applicant may become a conditional employee and work on the licensed premises with a receipt issued by the police department until such time the investigation is completed and approval or denial of the permit is issued.

(10) For the purpose of this section, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or managing agent of any pawnshop.

(11) Employee permits are nontransferable and are valid only for the individual named on the permit. Each such permit is valid for the individual named while employed in any establishment licensed in the city.

(12) Permits issued under this section shall be active for a period of one (1) year. At the expiration of one (1) year from the date of the issuance of the permit, it shall be the duty of the employee to renew the permit by going through the process described in this section. In addition, employees who cease employment with a pawn shop establishment with which they were employed when their permit was obtained for a period of six (6) months or more must also renew their permit before returning to a pawn shop establishment in the city. Renewal permits fees shall be one-half (½) of the fee charged for the original permits. After thirty (30) days of the original application date, a new application and fee must be submitted.

(13) Employees after receiving their permit must notify the ~~city marshal and the~~ police department of any changes involving information originally provided to obtain an employee permit; otherwise, their permit is invalid. Employees who are convicted of an offense that may affect their employment under this chapter are under a duty to fully inform the police department of any such conviction, and to supply sufficient documentation relating to the conviction to allow the city to fully investigate it. The failure to inform the police department and/or provide documentation of any such conviction invalidates an employee's permit and shall serve as automatic forfeiture and cancellation of the permit.

(14) It shall also be the duty of the pawn broker to file with the ~~city marshal and~~ the police department, on a monthly basis, a report which lists all employees currently employed in a capacity that would require an employee permit. Each such report shall include the name and date of birth of all such individuals, as well as the same information on all such individuals who have terminated employment during the one-month employment period. Failure to submit said report by the twentieth day each month shall constitute a violation of this Code.

(15) Any applicant who is denied a permit may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 6-16-18.

Sec. 6-16-9. - Commencement for business—Forfeiture of license.

(a) All holders of licenses under this chapter shall, within six (6) months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the ~~city council~~ city manager or designee. Failure to open the licensed establishment as referred to in this subsection within the six-month period shall serve as an automatic forfeiture and cancellation of the license, and no refund of license fees shall be made to the license holder.

(b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three (3) consecutive months thereafter cease to operate the business as authorized in the license, shall automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action by the ~~city marshal or the city council~~ city manager or designee.

Sec. 6-16-10. - License transfer.

No license granted for a pawnshop shall be transferable except upon application to the ~~city marshal~~ city manager or designee in the same form and manner, and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred

only to another applicant doing the same business at the same location as the license holder to whom the license was originally issued provided and excepting, however, that if the license holder is a partnership and one (1) or more of the partners should die, one (1) 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 license, and in such case, the license upon notification to the city shall be placed in the name of the surviving partner. When permission for transfer has been granted, the original licensee or transferee shall cease doing business and deliver the license to the ~~city marshal~~ city manager or designee, who shall record such transfer, and the transferee shall pay a fee therefore as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established from time to time by the city council.

Sec. 6-16-11. - Record of transactions.

(a) Every pawnbroker shall maintain a permanent electronic record of its pawn transactions in which an accurate description of all property pledged, traded or sold to the pawnshop can be transmitted to the police department via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnbroker and shall be made at the time of each transaction, provided that the following information is included:

(1) The date and time of the purchase, pawn or sale of the property.

(2) The full name, street address and telephone number of the customer making the pledge, trade or sale.

(3) The pawnshop shall require all persons pledging, trading, pawning, exchanging, or selling property to show accepted identification as defined in section 6-16-3 prior to conducting a pawnshop transaction.

(4) A description of the customer in terms of sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.

(5) A description of the pledged or purchased property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).

(6) The number of the receipt or pawn transaction issued for the property pawned or bought.

(7) The price paid or the amount loaned.

(8) The maturity date of the transaction, if a pawn.

(9) A photograph of the customer and the item pawned or bought which will be taken with the electronic automated reporting system at the time of the transaction.

(10) The pawnshop shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right-hand index finger, unless such finger is missing, in which 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. An electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one (1) pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.

(11) The signature of the customer.

(12) The tag bearing the pawnshop transaction number must remain attached to the item 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 or distributor businesses for the purpose of retail sales; however the pawnshop shall be required to maintain all purchasing records for property exempted from this paragraph.

(b) Every pawnbroker shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the police department.

(c) The pawnshop shall store the above records, digital images, and fingerprints for a period as designated by state statute and make them available to law enforcement personnel upon request.

(d) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, or the system is terminated pawnbrokers will be notified as soon as possible, by the administrator of the system. Pawnshops that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting, should immediately notify the police department with the reason of the failure. In these events, the pawnbrokers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this section. Pawnbrokers shall maintain a three-day supply of these paper forms. On a daily basis, all transactions not reported in the electronic automated reporting system, will be delivered to the police department by the pawnshop within twenty four (24) hours of the end of the business day for every day until the event has been corrected.

(e) Any duly authorized law enforcement officer authorized by the chief of police, may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic or paper records or any goods in his possession at the pawnbroker's place of business to ensure compliance not only with this section, but this chapter and state law.

(f) The chief of police or his designee shall select and designate the required automated reporting system and required equipment needed. A fee will be assessed to each pawnshop for each reported transaction: said fee shall be an amount set by the chief of police equal to that charged by the administrator of the automated reporting system. The assessed fee to the pawnshops shall not exceed the actual cost charged by the City of Gainesville or by the third-party administrator. This fee will be invoiced to the pawnbroker and collected by the chief of police or his designee, which may be a third-party administrator of the automated reporting system.

Sec. 6-16-12. - Disposal of articles.

Any pawnbroker or employee of a pawnshop who makes a loan on pledged goods, or buys pledged goods on the condition that the seller may repurchase said goods, shall hold said goods for at least thirty (30) days or longer if directed by the police department, before disposing of them by sale, transfer, shipment or otherwise. Non-pledged goods bought under this section shall be held for at least seven (7) calendar days before disposing of them by sale, transfer, shipment or otherwise.

Sec. 6-16-13. - Miscellaneous.

(a) It shall be unlawful for any pawnbroker or employee of a pawnbroker to receive goods in pawn, trade, purchase or sale from a person under eighteen (18) years of age.

(b) It shall be unlawful for any pawnbroker to receive in pawn, pledge or sale, goods of any character or description any item which is a new in box item unless a receipt or other proof of purchase is provided.

(c) (1) No employee of the city who has any interest in a pawnshop, as defined herein, shall be assigned to work in any area or division of the city which regulates the business of pawnshops.

(2) No employee of the city with regulating authority may own, work in or be employed (paid or unpaid) by a pawnshop inside the city limits of the city. Regulating authority, for purposes of this section, is defined as any person involved in or assigned to the inspection of the premises, approval of the occupation tax certificate applications, annual pawnshop license applications, or annual employee permit applications; and granting or denying of such applications, or enforcement of this chapter and its provisions.

(3) No employee of the city with regulating authority as defined herein, may regulate a pawnshop where such is owned or operated by any person related to the employee of the city within a third degree of kinship. The term third-degree kinship shall include, for purposes of this chapter, children, grandchildren, mother, father, brothers and sisters, aunts and uncles, first cousins and in-laws.

(4) The definition of employees of the city does not include elected officials of the city.

(d) Reserved.

(e) A pawnbroker selling goods other than those pledged may add new merchandise to its stock of the same type as that on which loans are made, up to a value of one thousand dollars ($1,000.00) per month, without having to pay an additional occupation tax as would otherwise be imposed according to the terms of the business taxes of the city. The pawnbroker must maintain all records, invoices, and bills of sale for such merchandise which shall be subject to inspection and review by any duly authorized law enforcement. No article(s) shall be maintained on the premises for sale on a consignment basis for any citizen, employee or pawnbroker.

Sec. 6-16-14. - Reserved.

Sec. 6-16-15. - Lost or stolen items.

(a) It shall be the duty of every person operating or employed by a pawnbroker to report to the police department any article or goods sold or pawned to the pawnbroker if that person shall have a reason to believe that the article or goods was stolen or lost when presented by the seller or customer.

(b) With respect to any item(s) which would normally have a serial number or other means of identification, any pawnbroker or employee of a pawnbroker who becomes aware that such items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the police department.

(c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his employee is the subject of any reported theft, then the surrender of said item to the police department shall be done upon demand. The police officer receiving the item shall give the pawnbroker a receipt for the item.

(d) The police department has the authority to place property that is the subject of police investigation on "police hold". In that event, the police department shall notify the pawnshop of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the pawnshop to maintain the subject property until such time as the property is released from the police hold status or the property is confiscated as evidence.

Sec. 6-16-16. - Denial, transfer, suspension, revocation or forfeiture of annual pawnshop license.

Denial, immediate suspension, revocation, or forfeiture of an issued license shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 6-16-18, appeal procedure, and only on the following occurrences:

(1) Any license issued under this chapter for a pawnbroker shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet, pawnbroker or property therein.

(2) A license application may be denied to any applicant where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(3) Except as provided in the transfers, section 6-16-10, transfers, any change in the ownership of any entity owning a licensed location shall be grounds for the ~~city council~~ city manager or designee to revoke any license issued under this chapter.

(4) A license shall be immediately suspended or revoked by the ~~city marshal~~ city manager or designee upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this chapter and the Code of Ordinances of the city, or engages in deceptive business practices as defined in this chapter.

(5) The license of any licensee does not meet the qualifications set forth in this chapter at any time such information becomes known to the ~~city council~~ city manager or designee.

(6) The pawnbroker has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, within ten (10) years of the date of such conviction unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 6-16-17. - Denial, suspension, revocation or forfeiture of annual employee permit.

Denial, immediate suspension, revocation, or forfeiture of an issued permit shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 6-16-18, appeal procedure, and only upon the following occurrences:

(1) The pawnshop employee has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, within five (5) years from the date of such conviction, unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or

committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 6-16-18. - Annual pawnshop license and annual employee permit appeal procedure.

Any pawnbroker whose license or any employee whose permit has been denied, suspended, revoked, or forfeited, may appeal same by filing a notice of appeal with the ~~city marshal~~ city manager or designee, in cases involving annual pawnshop licenses, or to the police department in cases involving annual employee permits, within ten (10) business days of the date on which the applicant is notified of same. The notice of appeal shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof) the grounds or basis for the appeal, the action requested, the name and address of the applicant, and the reasons why the license or permit should not be denied, suspended, revoked or forfeited. The ~~city marshal~~ city manager or designee, in cases involving annual pawnshop licenses, or the police department in cases involving annual employee permits, shall schedule a hearing before the administrative hearing officer at a time and place not more than thirty (30) calendar days after receiving the notice of appeal. At the hearing, the applicant shall have the opportunity to present argument and evidence as to why the annual pawnshop license or annual employee permit should be approved or should not be denied, suspended, revoked or forfeited. The ~~city marshal~~ city manager, designee, or police department shall also be given the opportunity to present argument and evidence as to why the license or permit should not be approved, or should be denied, suspended, revoked or forfeited. The administrative hearing officer shall not be bound by the traditional rules of evidence in the hearing, but the rules governing evidence in administrative hearings shall apply. Both parties shall be afforded the opportunity to present evidence and cross-examine witnesses. The administrative hearing officer shall have the power to rule on the admissibility of evidence, hear testimony under oath, and consider documents and other tangible evidence presented.

The administrative hearing officer shall either approve issuance of a license, or permit or the suspension, revocation or forfeiture of the license or permit in writing and shall issue findings of fact with the reasons supporting his decision within fifteen (15) days of the conclusion of the hearing. The decision of the hearing officer shall be mailed or delivered to the appellant. If the hearing is not held within forty-five (45) days as provided herein, or the decision is not rendered within fifteen (15) days of the conclusion of the hearing as provided herein, then the applicant's license or permit shall be deemed to remain in effect, or if applicable the appellant's license or permit shall not be denied, suspended, revoked or forfeited unless the parties agree to a continuance, or the administrative hearing officer requests a continuance for good cause shown.

The appellant or the city shall have the right to appeal the decision of the administrative hearing officer to the Superior Court of Hall County, Georgia, via certiorari as provided by Georgia law.

Sec. 6-16-19. - Violations.

(a) It shall be unlawful for any pawnbroker or employee of a pawnbroker to violate any of the provisions of this chapter, whether or not such person or employee is the holder of a current valid license or permit issued according to the terms of this chapter. Further, any person failing to comply with any provision of this chapter or other rules, ordinances and regulations as may be passed by the city council for conduct of the business of a pawnbroker, shall upon conviction, have the license or permit to conduct business revoked.

(b) It shall be unlawful for any pawnbroker or employee of a pawnbroker to:

(1) Make any false statement in an application for any license or permit provided for in this chapter.

(2) Make any false entry in any record book, ledger or form required by the terms of this chapter.

(3) Violate any criminal law of this state while acting in the course of business as a pawnbroker or employee of a pawnbroker.

(c) Any person violating any of the provisions of this chapter shall be punished as provided in section 1-1-7 of this Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and shall be punished accordingly.

CITY OF GAINESVILLE

COUNCIL AGENDA REQUEST

Date Submitted: 4/15/2020

Presenter: Bryan Lackey

Item of Business: BR-2020-18 Approval of Exercising Power of Eminent Domain at 628 EE Butler Parkway
(Tabled at the April 21, 2020 Mayor/Council Meeting - Staff recommends tabling to the June 16, 2020 Mayor/Council Meeting)

Meeting Date: 5/19/2020

Purpose of Request:

The purpose of this request is to approve utilizing eminent domain to acquire the property at 628 EE Butler Parkway for a public purpose.

History/Background:

Facts & Issues for Consideration:

A sign was placed on the property on April 3, 2020. Public Notice appeared in the weekend edition of the Gainesville Times dated April 4-5 and April 11-12, 2020.

The resolution was tabled at the April 21, 2020 Mayor/Council Meeting to the May 19, 2020 Mayor/Council Meeting.

Department Recommendation:

Table the resolution to the June 16, 2020 Council Meeting.

Department Director:

Bryan Lackey

If funding is involved, are funds approved within the current budget?

Amount Requested: **Source of Funds**:

Finance Comments:

Administrative Comments:

ATTACHMENTS:

Description	Type
Public Notice in Gainesville Times	Legal Ad

Legal Organ: **The Times**
Published: **April 4-5, 2020 Edition**
Published: **April 11-12, 2020 Edition**

PUBLIC NOTICE

The Governing Authority of the City of Gainesville will consider whether to exercise the power of eminent domain to acquire the property located at 628 S.E. E. E. Butler Parkway, Gainesville, Georgia for a public purpose. The consideration of this question will come before the City of Gainesville Governing Authority on April 21, 2020, at 6:15 PM at the Gainesville Justice Center, Municipal Court Room, 701 Queen City Parkway, Gainesville, Georgia 30501.