COUNTY AGENDA REQUEST

Department:	Code Enforcement	Presenter(s):	Kathy Hobbs / Dennis Davenport
Meeting Date:	Thursday, August 28, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to repeal Ordinance 2014-09 and to adopt Ordinance 2014-12, amending the Code of Ordinances for Fayette County, Georgia, and in so doing deleting Chapter 13 in its entirety and incorporating Article VI.- Pawnbrokers, Dealers in Precious Metals and Gems, and Flea Market Operators into Chapter 8- Businesses.

Background/History/Details:

On May 8, 2014, the Fayette County Board of Commissioners adopted Ordinance 2014-09 pertaining to Chapter 13 of the Fayette County Code of Ordinances concerning Pawnbrokers, Dealers in Precious Metals and Gems, and Flea Market Operators.

Subsequent review by staff concluded revisions were needed to assure an across the board implementation and cohesiveness in order to enforce the ordinance.

The proposed Ordinance 2014-12 will repeal Ordinance 2014-09 in its entirety and will incorporate Article VI.- Pawnbrokers, Dealers in Precious Metals and Gems, and Flea Market Operators into Chapter 6- Businesses.

If Ordinance 2014-12 is adopted, then a Fee Schedule will also have to be adopted. The Fee Schedule is listed as a separate Agenda Item (New Business #16) for the Board's consideration.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to repeal Ordinance 2014-09 and to adopt Ordinance 2014-12, amending the Code of Ordinances for Fayette County, Georgia, and in so doing deleting Chapter 13 in its entirety and incorporating Article VI.- Pawnbrokers, Dealers in Precious Metals and Gems, and Flea Market Operators into Chapter 8- Businesses.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

This request is associated with New Business #16. If this request is approved, then a fee schedule will also have to be adopted. The proposed fee schedule is provided on the Agenda as New Business #16.

ORDINANCE 2014-12

PAWNSHOP ORDINANCE

RED-LINED VERSION

CHAPTER ~~13~~8. ~~PAWNBROKERS, DEALERS IN PRECIOUS METALS AND GEMS AND FLEA MARKET OPERATORS~~BUSINESSES.

ARTICLE VI. PAWNBROKERS, DEALERS IN PRECIOUS METALS AND GEMS AND FLEA MARKET OPERATORS.

~~ARTICLE~~ DIVISION 1~~I~~. ~~PAWNBROKERS~~IN GENERAL.

Sec. ~~13-1~~8-201. Findings and intent.

This ordinance 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.

Secs. 8-202 through 8-220. RESERVED.

DIVISION 2. PAWNBROKERS,

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Sec. ~~13-2~~8-221. Definitions.

The following words, terms, and phrases, when used in this ~~Article~~Division, shall have the meanings ascribed to them in this section or shall have the same meaning as set forth in the Official Code of Georgia Annotated, § 44-12-130, should those definitions differ:

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

Licensee shall mean a person holding a license issued by Fayette County to engage in the business of being a pawnbroker and/or to operate a pawnshop.

Month shall mean that period of time from one 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.

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

Pawnshop shall mean any place of business operated by a pawnbroker where pawn transactions take place.

Pawn transaction shall mean 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 shall mean an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Pledged goods shall mean tangible personal property, including, without limitation, all types of motor vehicles or any motor vehicle certificate of title, which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction. However, for purposes of this ~~Article~~Division, 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. The term "pledged goods" shall not include choses in action, securities, or printed evidences of indebtedness.

~~**Sec. 13-3. Employees.**~~

~~No person shall be an employee of a pawnshop in any capacity until such person has been fingerprinted by the Fayette County Sheriff's Department and has been issued an annual permit authorizing such person to be employed by a pawnshop. It shall be the duty of the pawnbroker to assure that there is compliance with the provisions of this section.~~

Sec. ~~13-4~~8-222. General policies and purposes.

(a) Pawnbrokers may operate only after the issuance of a license for such operation by the County 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 ~~Article~~ Division and with the 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 ordinance and State law and subject to being revoked by the County.

(c) Each licensee of the County shall display the license issued under this ~~Article~~ Division prominently at all times at the outlet for which the license is issued. A separate license must be issued for each outlet of sale and a separate application must be made for each outlet.

Sec. 8-223. Location of businesses.

All businesses licensed under this Division shall be located in strict compliance with the Fayette County Zoning Ordinance and at a location with an identifiable street address, which shall be stated on the license or renewal application along with other required information. No business licensed under this Division shall change its address without giving advance notice to the County and receiving an approval of the change, such approval to be granted if the new

location complies with this Division and the Fayette County Zoning Ordinance. No business licensed under this Division shall be operated in or from a motel or hotel.

Sec. ~~13-5~~8-224. Qualifications for issuance of license.

Any person who desires to obtain a license to engage in the business of a being a pawnbroker and/or for the operation of a pawnshop must meet the minimum qualifications set forth in this section. 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 applications 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 applications process.

(a) No owner, employee, pawnbroker or any person connected with a pawnshop for which a license or permit is sought shall have been convicted of ~~a crime involving "moral turpitude" or shall have been convicted of any crime involving felony theft, burglary, robbery, or a violation of the "Family Violence Act."~~or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within two (2) years prior to the date of the application.

(b) No license shall be granted to an applicant who is under the age of eighteen (18) years of age.

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

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

(e) No license shall be granted for a location that is not in compliance with any federal, state, or local regulation including, but not limited to, a state certificate of occupancy or a Fayette County certificate of occupancy.

(f) 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 other departments of the County.

(g) No license shall be issued unless the applicant and each individual licensee is and continues to be a resident of the State of Georgia. Corporations must either be incorporated in the State or Georgia or must have registered to do business in this State, and only the applying general manager or applying corporate officer must meet the residency requirements.

Sec. 8-225. Employee permit required.

(a) No person shall be an employee of a pawnshop in any capacity until such person has been authorized by Code Enforcement to be employed by a pawnshop and issued an employee's identification badge. This identification bade must be worn at all times while working. It shall be the duty of the pawnbroker to ensure that there is compliance with the provisions of this section.

(b) No employee permit shall be issued to any person who has been convicted of or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within two (2) years prior to the date of the application.

Sec. ~~13-6~~8-226. Annual ~~permit~~license.

Before operating a pawnshop or becoming an employee of a pawnshop, any person must first file an application with Fayette County Code Enforcement for a ~~permit~~ license to operate or be employed in the pawnshop, pursuant to the following:

(a) The application shall be made on an annual basis;

(b) No ~~permit~~ license shall be issued until a fee in an amount established by action of the County, a copy of which is on file with Code Enforcement, is paid to the County;

(c) The application shall state the physical address of the pawnshop;

(d) The application shall contain the full name, street address, mailing address, phone number, facsimile number, e-mail address, Social Security number, and date of birth and of any employee, owner, or pawnbroker;

(e) Code Enforcement or any other officer of the County designated by the County Administrator shall investigate each applicant for such license and shall make a report to the ~~Board of Commissioners~~County Administrator as to whether such applicant is a person of good character and as to whether such applicant has been convicted of a criminal offense as described in subsection (a) of Section ~~13-5~~8-224 of this ~~Article~~Division.

(f) Any license holder subject to this ordinance shall apply for renewal of any existing license and shall pay the annual license fee no later than November 1st of each calendar year in which it does business.

Sec. ~~13-7~~8-227. Application for license.

(a) All applications required in Section ~~13-6~~8-226 of this ~~Article~~ Division shall be in writing and on forms provided by Code Enforcement.

(b) 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.

(c) 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(s) who are considered relevant to the ascertainment of facts relative to such license, as may be requested by Code Enforcement, the Fayette County Sheriff's Department, or other official designated by the County Administrator. The failure to produce such persons within thirty (30) days after being requested to do so may result in denial of the application.

(d) Each application shall be accompanied by an affidavit of each person whose name appears on the application stating that said person has not been convicted or entered a plea of nolo contendere to any of the crimes listed in Section 8-224(a) of this Division within the time periods specified in said Section.

(e) Each application shall be accompanied by a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.

(f~~d~~) No pawnshop shall be operated at the same location or in the same premises with the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise. No license for the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise shall be issued for a location licensed as a pawnshop.

(g~~e~~) Each applicant shall certify on the application that they have read this ~~Article~~ Division and, if the license is granted, each licensee shall maintain a copy of this ~~Article~~ Division on the premises.

(h~~f~~) Upon receipt of an application, as well as all accompanying documents and required investigative and license fees, Code Enforcement will begin a criminal investigation of the applicant and prepare a written criminal investigation report detailing all information relating to fingerprinting, criminal history, arrest data, and other matters pertinent to law enforcement. Upon completion of the criminal investigation report, Code Enforcement shall assemble the tendered application forms and accompanying documents relating to the investigation and processing of the application and deliver such documents to the County Administrator or his or her designee. ~~If the criminal investigation report shows that the applicant meets the requirements set by this Article and all other requirements of this Article are satisfied, then the County Administrator or his or her designee shall schedule the application for hearing at the next regularly scheduled public hearing calendar before the Board of Commissioners and shall so inform the applicant of this fact before such meeting.~~ If the criminal investigation report shows that the applicant fails to meet the requirements set by this ~~Article~~Division, or if the applicant fails to meet all other requirements outlined by this ~~Article~~Division, then the County Administrator or his or her designee shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his or her right to appeal. Such appeal shall be before the Board of Commissioners in accordance with Section ~~13-17~~8-240 of this ~~Article~~Division. If an applicant

desires to appeal a denial, the applicant must file a written request for an appeal with the County Administrator within ten (10) business days of the date of the written notice informing the applicant of the denial of the license.

(i~~g~~) Any application that the County Administrator or his or her designee determines to satisfy all the requirements outlined in this ~~Article~~Division, including character requirements as contained in the criminal investigation report of Code Enforcement, shall be ~~scheduled for review at the next regularly scheduled public meeting of the Board of Commissioners~~approved. ~~At that meeting, the applicant and any person opposed to such application has the right to present to the Board of Commissioners any information that the Board of Commissioners determines is relevant to the licensing decision. In making its determination on whether to approve or deny the application, the Board of Commissioners shall look to the qualifications set forth in this Article and consider the public interest and welfare of the citizens of Fayette County. The Board of Commissioners shall have the discretion to grant or deny the application based on the information presented. A decision by the Board of Commissioners shall be made within thirty (30) days from the date of the public hearing, unless the decision is postponed for purposes of obtaining additional information deemed necessary for consideration of the application. Notice of the decision by the Board of Commissioners shall be mailed to the applicant. If the application is denied, such written notification shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his or her right to appeal. Such appeal shall be taken solely in accord with Section 13-17 of this Article.~~

(j~~h~~) In all instances in which an application is denied, the applicant may not reapply for the same type of license for at least one (1) year from the date of denial.

(k~~i~~) Upon the issuance of a license, the licensee must have and continuously maintain in the County a registered agent upon whom any process, notice, or demand required or permitted by law or under this ~~Article~~ Division may be served. This person must be an individual and must be a resident of the County. The licensee shall submit the name of such agent, along with the written consent of such agent, to Code Enforcement. The identity of the agent may also be submitted contemporaneous to filing the license application.

(l~~j~~) Upon approval ~~by the Board of Commissioners~~ of the application for a license, Code Enforcement 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 and in the name of the majority stockholder or a principal officer 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 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 the annual license fee. License fees are not refundable once the license is granted by the County.

Sec. ~~13-8~~8-228. Commencement and forfeiture.

(a) All holders of licenses under this ~~Article~~ Division must, 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 County Administrator or his or her 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 holders of a license under this ~~Article~~ Division 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 or her license, which license shall by virtue of such failure to operate be canceled without the necessity for any further action by the County Administrator or his or her designee ~~or the Board of Commissioners~~.

Sec. ~~13-9~~8-229. ~~Renewals and transfers~~Transfers.

~~(a) Any license holder subject to this ordinance shall apply for renewal of any existing license and shall pay the annual license fee no later than December 1 of each calendar year in which it does business.~~

~~(b)~~ No license granted for a pawnshop shall be transferable except upon application to Code Enforcement 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 place as the license holder to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the County Administrator or his or her designee who shall record such transfer, and the transferee shall pay a fee as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established in a schedule of fees adopted by the Board of Commissioners.

Sec. ~~13-10~~8-230. 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 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. ~~13-11~~8-231. Minors.

It shall be unlawful for any pawnbroker or employee of a pawnshop to receive goods in pawn, trade, purchase or sale from a person of less than 18 years of age.

Sec. ~~13-12~~8-232. Hours of operation.

All holders of licenses under this ~~division~~ Division shall operate only between ~~8~~9:00 a.m. and 9:00 p.m., Monday through Saturday.

Sec. ~~13-13~~8-233. Lost or stolen items.

(a) It shall be the duty of every person operating a pawnshop or employed by a pawnshop to report to the Fayette County Sheriff's Department any article or goods sold or pawned to him or her if he or she shall have a reason to believe that the article or goods were stolen or lost when presented by the seller or customer.

(b) With respect to any items which would normally have a serial number or other means of identification, if any pawnbroker or employee of a pawnshop becomes aware that such items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the Fayette County Sheriff's Department.

(c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his or her employee is the subject of any reported theft, then the surrender of said item to the Fayette County Sheriff's Department shall be done upon demand.

Sec. ~~13-14~~8-234. Suspension and revocation of license.

Immediate suspension, revocation, or forfeiture of a license ~~issued by the Board of Commissioners~~ shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in ~~Section 13-17~~this Division and only upon the following occurrences:

(a) Any license issued under this ~~Article~~ Division for the operation of a pawnshop shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet or property therein.

(b) Except as provided in ~~Section 13-9~~this Division, any change in the ownership of any entity operating or owning a licensed outlet shall be grounds for revocation of the license by the Board of Commissioners.

(c) A license shall be immediately suspended or revoked by the Board of Commissioners 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 ~~Article~~Division.

(d) The Board of Commissioners shall immediately suspend or revoke the license of any licensee who does not meet the qualifications set forth in this ~~Article~~ Division at any time such information becomes known to the Board of Commissioners.

Sec. ~~13-15~~8-235. 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 Fayette County Sheriff's Department via an electronic automated reporting system, approved by the Fayette County Sheriff's Department. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnshop 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) 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.

(4) 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.).

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

(6) The price paid or the amount loaned.

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

(8) 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.

(9) The signature of the customer.

(10) The fingerprint of the customer as generated by the electronic automated system.

(b) Every pawnshop 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 Fayette County Sheriff's Department.

(c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, pawnshops and pawnbrokers will be notified as soon as possible. In this event, 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 Code Section. Pawnbrokers shall maintain a three-day supply of these paper forms.

(d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic records at the pawnbroker's place of business to ensure compliance with this section.

(e) The Fayette County Sheriff's Department shall select and designate the required automated reporting system. ~~There will be a fee assessed to the pawnshop for each reported transaction; said fee shall be adopted by the Board of Commissioners and be set in a fee schedule of the county. This fee will be invoiced to the pawnbroker and collected by the Fayette County Sheriff's Department, which may be a third party administrator of the automated reporting system.~~

Sec. 8-236. Identification required.

All businesses licensed under this Division shall, when receiving or purchasing goods, require a proper identification (e.g., driver's license, military I.D. card, state approved I.D. card or company employee I.D. card) containing a picture showing positive identification of the person who is selling or trading, or such identification shall be verified.

Sec. 8-237. Fingerprinting required.

All businesses licensed under this Division shall require every person from whom it accepts goods to place the fingerprint of his or her right index finger (if right index finger is missing, the next finger in line will be used) on the copy of the purchase ticket which is to be sent to the Fayette County Sheriff's Department.

Sec. 8-238. Erasers, obliterations, write-overs and type-overs not allowed.

No person licensed under this Division shall erase, obliterate, type over, write over or in any way cause the original entry on the records required under this Division to become illegible. All purchase tickets filled out in error shall be sent to the Fayette County Sheriff's Department in their numbered order along with daily reports and shall have the word "VOID" typed or written across the front; such entry shall not be used to cause the original entry to be illegible. If an error is made and the ticket is still to be used, then a single line shall be drawn through the incorrect entry. This line shall not cause the original entry to be illegible and the correct information entry shall be made on the next available area.

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Sec. ~~13-16~~8-239. Violations.

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

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

(1) Make any false statement in an application for any permit provided for in this ~~Article~~Division.

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

(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 who violates a provision of this ~~Article~~ Division shall be guilty of a misdemeanor.

Sec. ~~13-17~~8-240. Appeal procedure.

(a) Upon receipt of a timely appeal of an administrative denial, or upon alleged violation of those items in Section ~~13-14~~8-234, the County Administrator or his or her designee shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The County Administrator or his or her designee shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Attorney and the adverse party and/or counsel for the adverse party.

(b) The Board of Commissioners shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

(c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his or her case, to rebut the allegations made against him or her, and present whatever defenses he or she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses. An opportunity for rebuttal shall be provided.

(d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the County Administrator or his or her designee and it shall be the duty of County Administrator or his or her designee to provide written notification via certified mail to the adverse party of the decision of the Board of Commissioners.

(e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Fayette County within thirty (30) days of receipt by the adverse party of the written notification of the decision of the Board of Commissioners.

Sec. ~~13-18~~8-241 through ~~13-49~~8-260. Reserved.

~~ARTICLE II~~DIVISION 3. DEALERS IN PRECIOUS METALS AND GEMS.

Sec. ~~13-50~~8-261. Definitions.

The following words, terms and phrases, when used in this ~~Article~~Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Dealer in precious metals and gems shall mean a person, as either owner or manager, whose business involves receiving through purchase or trade precious metals (such as gold, silver or platinum), jewelry, gems, precious or semiprecious stones, in any form, but not one who purchases from licensed wholesalers in the normal course of business.

Employee shall mean any person employed or allowed to perform duties, whether or not such person receives a salary, wages or other compensation or consideration, but not including the person covered on the license or renewal application.

Goods shall have its normal meaning, however it should be further construed in the broadest sense allowable and should include all forms of personal property.

Numismatic coins shall mean coins whose value as collectors' item exceeds the value of the content of the precious metals in the coins.

Owner shall mean any person, partner or stockholder owning twenty-five (25) percent or more of a business.

Sec. ~~13-51~~8-262. License required.

Every person doing business in the unincorporated area of Fayette County as a dealer in precious metals or gems shall, prior to commencing business, make proper application for and receive the appropriate license.

Sec. 8-263. General policies and purposes.

(a) Dealers of precious metals and/or gems may operate only after the issuance of a license for such operation by the County and only in the manner permitted by such license. Purchase transactions may only occur through a licensee who complies with the rules and regulations of this Division and with the 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 ordinance and State law and subject to being revoked by the County.

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

Sec. 8-264. Qualifications for issuance of license.

Any person who desires to obtain a license to engage in the business of a being a dealer in precious metals and/or gems must meet the minimum qualifications set forth in this section. 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 applications 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 applications process.

(a) No owner, employee, dealer in precious metals and/or gems or any person connected with a such business for which a license or permit is sought shall have been convicted of or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within two (2) years prior to the date of the application.

(b) No license shall be granted to an applicant who is under the age of eighteen (18) years of age.

(c) All persons filing an application for a license to engage in the business of being a dealer in precious metals and/or gems will be required to complete a waiver in order for the applicant's criminal history to be obtained.

(d) No license shall be granted where the applicant has had any license to engage in the business of being a dealer in precious metals and/or gems issued by any county, municipality, or other governmental subdivision suspended or revoked.

(e) No license shall be granted for a location that is not in compliance with any federal, state, or local regulation including, but not limited to, a state certificate of occupancy or a Fayette County certificate of occupancy.

(f) 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 other departments of the County.

(g) No license shall be issued unless the applicant and each individual licensee is and continues to be a resident of the State of Georgia. Corporations must either be incorporated in the State or Georgia or must have registered to do business in this State, and only the applying general manager or applying corporate officer must meet the residency requirements.

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Sec. ~~13-52~~8-265. Exclusions and exceptions.

Businesses which limit the purchase of used valuables to the acceptance of trade-ins for credit for new goods or the dispensing of refunds in regard to valuables previously purchased from the business shall not be regulated or covered under this ~~Article~~Division.

Sec. 8-266. Annual license.

Before becoming a dealer of precious metals and/or gems, any person must first file an application with Fayette County Code Enforcement for a license to operating as a dealer of precious metals and/or gems, pursuant to the following:

(a) The application shall be made on an annual basis;

(b) No license shall be issued until a fee in an amount established by action of the County, a copy of which is on file with Code Enforcement, is paid to the County;

(c) The application shall state the physical address of the pawnshop;

(d) The application shall contain the full name, street address, mailing address, phone number, facsimile number, e-mail address, Social Security number, and date of birth and of any employee, owner, or pawnbroker;

(e) Code Enforcement or any other officer of the County designated by the County Administrator shall investigate each applicant for such license and shall make a report to the County Administrator as to whether such applicant is a person of good character and as to whether such applicant has been convicted of a criminal offense as described in subsection (a) of Section 8-264 of this Division.

(f) Any license holder subject to this ordinance shall apply for renewal of any existing license and shall pay the annual license fee no later than November 1st of each calendar year in which it does business.

Sec. ~~13-53~~8-267. Application for ~~permit~~license.

(a) All applications required in Section 8-266 of this Division shall be in writing and on forms provided by Code Enforcement.

(b) 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.

(c) 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(s) who are considered relevant to the ascertainment of facts relative to such license, as may be requested by Code Enforcement, the Fayette County Sheriff's Department, or other official designated by the County Administrator. The failure to produce such persons within thirty (30) days after being requested to do so may result in denial of the application.

(d) Each application shall be accompanied by an affidavit of each person whose name appears on the application stating that said person has not been convicted or entered a plea of nolo contendere to any of the crimes listed in Section 8-224(a) of this Division within the time periods specified in said Section.

(e) Each application shall be accompanied by a deed showing the applicant to be the owner of the premises for which the license is sought or a copy of a lease showing any interest the owner of the premises has in the business for which the license is sought.

(f) No dealer of precious metals and/or gems shall operate at the same location or in the same premises with the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise. No license for the sale, dealing in, exchange, or handling of other than new goods, wares, or merchandise shall be issued for a location where a licensed dealer of precious metals and/or gems operates.

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

(h) Upon receipt of an application, as well as all accompanying documents and required investigative and license fees, Code Enforcement will begin a criminal investigation of the applicant and prepare a written criminal investigation report detailing all information relating to fingerprinting, criminal history, arrest data, and other matters pertinent to law enforcement. Upon completion of the criminal investigation report, Code Enforcement shall assemble the tendered application forms and accompanying documents relating to the investigation and processing of the application and deliver such documents to the County Administrator or his or her designee. If the criminal investigation report shows that the applicant fails to meet the requirements set by this Division, or if the applicant fails to meet all other requirements outlined by this Division, then the County Administrator or his or her designee shall inform the applicant, in writing, that the application has been denied, and shall set forth in reasonable detail the reasons for the denial and shall notify the applicant of his or her right to appeal. Such appeal shall be before the Board of Commissioners in accordance with Section 8-289 of this Division. If an applicant desires to appeal a denial, the applicant must file a written request for an appeal with the County Administrator within ten (10) business days of the date of the written notice informing the applicant of the denial of the license.

(i) Any application that the County Administrator or his or her designee determines to satisfy all the requirements outlined in this Division, including character requirements as contained in the criminal investigation report of Code Enforcement, shall be approved.

(j) In all instances in which an application is denied, the applicant may not reapply for the same type of license for at least one (1) year from the date of denial.

(k) Upon the issuance of a license, the licensee must have and continuously maintain in the County a registered agent upon whom any process, notice, or demand required or permitted by law or under this Division may be served. This person must be an individual and must be a resident of the County. The licensee shall submit the name of such agent, along with the written

consent of such agent, to Code Enforcement. The identity of the agent may also be submitted contemporaneous to filing the license application.

(l) Upon approval of the application for a license, Code Enforcement 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 and in the name of the majority stockholder or a principal officer 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 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 the annual license fee. License fees are not refundable once the license is granted by the County.~~Applicants for a permit under this Article shall file with the County Administrator or his or her designee a written, sworn application on a form provided by the County, signed by the applicant if an individual, by all partners if a partnership or by the president and secretary if a corporation, and showing:~~

~~(a) The name or names of the principals, agents, and employees of the applicant's business during the time that it will be operating in the County; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (as proprietor, agent, employee or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, the state of incorporation;~~

~~(b) The fingerprints of the principals, agents and employees of the applicant's business, to be taken by the Fayette County Sheriff's Department and other evidence which establishes, to the satisfaction of the County, the good character of such persons to carry on the business;~~

~~(c) The applicant's place or places of business in the County, approval of the zoning district at the place or places, and the length of time during which it is proposed that the business shall be conducted;~~

~~(d) The place or places, other than the permanent place of business of the applicant, where the applicant within the six (6) months next preceding the date of the application conducted a similar business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;~~

~~(e) A brief statement of the nature and the character of the advertising done or proposed to be done in order to attract customers;~~

~~(f) Whether or not the person having the management or supervision of the applicant's business has been convicted of a crime, misdemeanor or violation of any County ordinance, the nature of such offense and punishment assessed therefore;~~

~~(g) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and~~

~~(h) Such other information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the County may deem proper to fulfill the purpose of this Article in the protection of the public good.~~

Sec. 8-268. Commencement and forefeiture.

(a) All holders of licenses under this Division must, within six (6) months after the issuance of the license, open for business the establishment referred to in the license,. 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 holders of a license under this Division 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 or her license, which license shall by virtue of such failure to operate be canceled without the necessity for any further action by the County Administrator or his or her designee.

~~**Sec. 13-54. Character qualification.**~~

~~No license or employee permit shall be issued to or renewed for any person who conducts or is employed in a business in which such owner or employee has, within five (5) years of issuance or renewal, been convicted of, or pled guilty or nolo contendere to, any felony or misdemeanor involving theft related offenses. The licensee shall submit information to the County regarding the identity of all owners and employees on a continuing basis as changes occur. This information shall be forwarded to the Fayette County Sheriff's Department for the purpose of enforcing these character qualifications.~~

~~**Sec. 13-55. False statements.**~~

~~The application shall state thereon that "It is unlawful for any person to make a false statement on this application. Any false statement made on the application form will void the application and constitute a violation of this section."~~

Sec. ~~13-56~~8-269. Employee permit.

~~Each person authorized or allowed to conduct any phase of business regulated in this Article shall be considered an employee and must have an approved employee permit. This permit must be displayed along with the business license in accordance with license display requirements.~~

(a) No person shall be an employee of a dealer of precious metals and/or gems in any capacity until such person has been authorized by Code Enforcement to be so employed and issued an employee's identification badge. This identification bade must be worn at all times

while working. It shall be the duty of the dealer of precious metals and/or gems to ensure that there is compliance with the provisions of this section.

(b) No employee permit shall be issued to any person who has been convicted of or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application and/or been convicted of or entered a plea of nolo contendere to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs within two (2) years prior to the date of the application.

~~Sec. 13-57. License and permit fee.~~

~~(a) All businesses licensed under this Article shall pay those fees as designated in a schedule of fees adopted by the Board of Commissioners.~~

~~(b) There shall be no proration or refund of any license fee. The license and permit issued under this Article shall be a personal privilege and shall not be transferable.~~

Sec. 8-270. Transfer of license.

No license granted for a dealer of precious metals and/or gems shall be transferable except upon application to Code Enforcement 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 place as the license holder to whom the license was originally issued. When permission for transfer has been granted, the original licensee or transferee shall cause the license to be delivered to the County Administrator or his or her designee who shall record such transfer, and the transferee shall pay a fee as a condition precedent to engaging in operations under the license. The fee for such transfer shall be established in a schedule of fees adopted by the Board of Commissioners.

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Sec. ~~13-58~~8-271. ~~Records to be kept~~Record of transactions.

(a) Every dealer of precious metals and/or gems shall maintain a permanent electronic record of its purchase transactions in which an accurate description of all property traded or sold to the dealer can be transmitted to the Fayette County Sheriff's Department via an electronic automated reporting system, approved by the Fayette County Sheriff's Department. Each of these transactions shall contain an accurate description of all property traded or sold to the dealer and shall be made at the time of each transaction, provided that the following information is included:

(1) The date and time of the trade or sale of the property.

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

(3) 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.

(4) A description of the traded or sold property by serial, model or other number, if available, including kind, style, material, color, design, kind and number of stones in jewelry and all identifying marks.

(5) The number of the receipt or transaction issued for the property traded or sold.

(6) The price paid.

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(7) A photograph of the customer and the item traded or sold which will be taken with the electronic automated reporting system at the time of the transaction.

(8) The signature of the customer.

(9) The fingerprint of the customer as generated by the electronic automated system.

(b) Every dealer of precious metals and/or gems 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 Fayette County Sheriff's Department.

(c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, dealers of precious metals and/or gems will be notified as soon as possible. In this event, said dealers 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 Code Section. Dealers of precious metals and/or gems shall maintain a three-day supply of these paper forms.

(d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic records at the pawnbroker's place of business to ensure compliance with this section.

(e) The Fayette County Sheriff's Department shall select and designate the required automated reporting system. ~~All dealers of precious metals and gems shall, in addition to other records, keep books wherein shall be entered an accurate description of all property received by or pledged or sold to them. Such description shall include the brand name of the article, any identifying mark, number, initial, social security number or name of any person or company, and a statement of the kind of material of which it is made. In such books there shall be entered also the name of the person by whom same was delivered, deposited or sold, the name of the person receiving the item and the time when such transaction occurred. These entries shall be made no later than one (1) hour after the transaction. Such books and the articles so pledged or sold shall~~

~~at all times be subject to inspection and examination by any law enforcement officer of the County or the State. Any person engaged in any business licensed under this Article who shall fail or refuse to keep the records as provided in this Section, or who shall make false entries concerning the transaction or who shall fail or refuse to permit an inspection by any law enforcement officer of the County or the State of his or her records and of the property pledged with or sold to him or her, shall be guilty of a violation of this article.~~

~~Sec. 13-59. Daily report to Fayette County Sheriff's Department.~~

~~Every business licensed hereunder shall make a daily report through the approved data entry program to the Fayette County Sheriff's Department of all property pledged or purchased during the twenty-four-hour period ending at 10:00 p.m. on the date of the report. Such reports shall be entered in to the data base and shall show: the name and address of the business; time of transaction; sequel number of the purchase tickets; amount paid or advanced; full description of articles, including kind, style, material, color, design, kind and number of stones in jewelry and all identifying names, marks, numbers, initials, or social security numbers; and a description of the person selling or trading the item, including name, address, race, weight and height.~~

~~Sec. 13-60. Records maintained for four years.~~

~~The record of each purchase transaction regulated by this Article shall be maintained for a period of not less than four (4) years from the date of transaction.~~

Sec. ~~13-61~~8-272. Special report.

It shall be the duty of each business licensed hereunder to keep an additional record book in which it shall list the name, address, race, height and age of every person from which the licensee receives smelted or non-formed precious metals. If the licensee receives or should be aware he or she is receiving smelted or non-formed precious metal from one (1) person or household more than twice in any one-year period, he shall immediately report each and every such occurrence to the Fayette County Sheriff's Department.

Sec. ~~13-62~~8-273. Identification required.

All businesses licensed under this ~~Article~~ Division shall, when receiving or purchasing goods, require a proper identification (e.g., driver's license, military I.D. card, state approved I.D. card or company employee I.D. card) containing a picture showing positive identification of the person who is selling or trading, and such identification shall be verified.

Sec. ~~13-63~~8-274. Fingerprinting required.

All businesses licensed under this ~~Article~~ Division shall require every person from whom it accepts goods to place the fingerprint of his or her right index finger (if right index finger is missing, the next finger in line will be used) on ~~digital systems on~~ the copy of the purchase ticket which is to be sent to the Fayette County Sheriff's Department.

Sec. ~~13-64~~8-275. Erasers, obliterations, write-overs and type-overs not allowed.

No person licensed under this ~~Article~~ Division shall erase, obliterate, type over, write over or in any way cause the original entry on the records required under this ~~Article~~ Division to become illegible. All purchase tickets filled out in error shall be sent to the Fayette County Sheriff's Department in their numbered order along with daily reports and shall have the word "VOID" typed or written across the front, such entry shall not be used to cause the original entry to be illegible. If an error is made and the ticket is still to be used, then a single line shall be drawn through the incorrect entry. This line shall not cause the original entry to be illegible and the correct information entry shall be made on the next available area.

Sec. ~~13-65~~8-276. Serial numbers.

No business licensed under this ~~Article~~ Division shall accept any articles which have had the serial number altered, obliterated or removed from such article or which the person who is making the business transaction knows should have a serial number upon it, unless such person immediately notifies the Fayette County Sheriff's Department.

Sec. ~~13-66~~8-277. Alteration.

Any item required to be kept or displayed shall be so kept in its original form as it existed when first received and its physical characteristics shall not be altered in any manner.

Sec. ~~13-67~~8-278. Purchased articles not to be disposed of for fifteen days after acquisition.

Every business licensed under this ~~Article~~ Division shall hold, on the premises designated in the license for doing business, every item required to be listed under this ~~Article~~ Division for at least fifteen (15) days before disposing the same by sale, transfer, shipment or otherwise. The provisions of this section shall not apply to purchases from licensed wholesalers in the normal course of business.

Sec. ~~13-68~~8-279. Display of goods pledged or purchased.

For a period of fifteen (15) days from the date of purchase or trade, all goods required to be listed shall be kept in a clearly visible place on the premises, designated in the license for doing business, and readily available to the general public. Every item required to be displayed shall have attached to it either a copy of the purchase ticket or the number of the ticket.

Sec. ~~13-69~~8-280. Location of businesses.

All businesses licensed under this ~~article~~ Division shall be located in strict compliance with the Fayette County Zoning Ordinance and at a location with an identifiable street address, which shall be stated on the license or renewal application along with other required information. No business licensed under this ~~Article~~ Division shall change its address without giving advance notice to the County and receiving an approval of the change, such approval to be granted if the

new location complies with this ~~Article~~ Division and the Fayette County Zoning Ordinance. No business licensed under this ~~Article~~ Division shall be operated in or from a motel or hotel.

Sec. ~~13-70~~8-281. Hours of operation.

~~All businesses licensed under this Article shall close their establishment and cease transacting any business no later than 8:00 p.m. each day and begin their operation and commence transacting business at no time before 8:00 a.m. each day.~~All holders of licenses under this Division shall operate only between the hours of 9:00 a.m. and 9:00 p.m, Monday through Saturday.

Sec. ~~13-71~~8-282. Business transactions conducted outside.

No business transactions by any business licensed under this ~~Article~~ Division shall be conducted outside the building designated as the normal place to conduct transactions unless the business does not have a building. Business transaction means any part of a business including inspection or appraisal of any goods when it is possible for such goods to be taken inside the building where transactions normally are made ("possible" being used here in the broadest sense); and no persons other than those possessing a license or employee permit shall be allowed to conduct any form of business transactions either inside the establishment or on any part of outside land area specified on the license.

Sec. ~~13-72~~8-283. Separate business establishment.

No business licensed under this ~~Article~~ Division shall be designed or operated so as to allow access to the business immediately from any other business without first exiting the other business into a common or open area to which the public at large has access.

Sec. ~~13-73~~8-284. Dealing with minors.

It shall be unlawful for any person licensed under this ~~Article~~ Division to receive in purchase or trade any goods of any character or of any description from any person who has not attained the age of eighteen (18) years.

Sec. ~~13-74~~8-285. Stolen items.

Every person licensed under this ~~Article~~ Division shall, immediately upon request, turn over to the Fayette County Sheriff's Department every item believed by the Fayette County Sheriff's Department to be a stolen item. Such item shall be returned to the licensee only after it has been determined that such item is not stolen. If it is determined that such item is stolen, it shall be returned to its lawful owner.

Sec. ~~13-75~~8-286. Inspection.

As a condition of any license covered under this ~~Article~~Division, every licensee agrees to allow any law enforcement officer, pursuant to his or her official duties, to be and remain on or

about his premises without the formality of a warrant, provided the officer does not unduly interfere in the licensee's operation.

Sec. ~~13-76~~8-287. Penalties.

Any person licensed under this ~~Article~~ Division who shall engage in any of the following shall be guilty of a violation of this Code and punished as a misdemeanor, as defined by State law:

(1) Fail to make any entry of any required item in a permanent record book;

(2) Make any false entry therein;

(3) Falsify, obliterate, record so that information is illegible, destroy or remove from his or her place of business such permanent record book;

(4) Refuse to allow any law enforcement officer of the County or the State to inspect such permanent record book, or any goods in his or her possession, during the ordinary hours of business or any reasonable time, or refuse to allow any member of the general public to inspect goods in his or her possession being held under purchase or trade (within the fifteen-day purchase period) during ordinary business hours;

(5) Fail to maintain a record of each purchase or trade transaction for at least four (4) years; or

(6) Violate any other provisions of this ~~Article~~Division.

Operation of any business under this ~~Article~~ Division in violation of any provision of this Section shall constitute a separate offense for each day of operation.

Sec. ~~13-77~~8-288. ~~Revocation~~ Suspension and revocation of license.

Immediate suspension, revocation, or forfeiture of a license shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in this Division and only upon the following occurrences:

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(a) Any license issued under this Division for a dealer of precious metals and/or gems shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet or property therein.

(b) Except as provided in this Division, any change in the ownership of any entity operating or owning a licensed outlet shall be grounds for revocation of the license by the Board of Commissioners.

(c) A license shall be immediately suspended or revoked by the Board of Commissioners 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 Division.

(d) The Board of Commissioners shall immediately suspend or revoke the license of any licensee who does not meet the qualifications set forth in this Division at any time such information becomes known to the Board of Commissioners.~~Any license issued under this Article shall be subject to suspension or revocation in the same manner as specified in Article I of this Chapter for pawnshops.~~

Sec. 8-289. Appeal procedure.

(a) Upon receipt of a timely appeal of an administrative denial, or upon alleged violation of those items in Section 8-288, the County Administrator or his or her designee shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The County Administrator or his or her designee shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Attorney and the adverse party and/or counsel for the adverse party.

(b) The Board of Commissioners shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

(c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his or her case, to rebut the allegations made against him or her, and present whatever defenses he or she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses. An opportunity for rebuttal shall be provided.

(d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the County Administrator or his or her designee and it shall be the duty of County Administrator or his or her designee to provide written notification via certified mail to the adverse party of the decision of the Board of Commissioners.

(e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Fayette County within thirty (30) days of receipt by the adverse party of the written notification of the decision of the Board of Commissioners.

Secs. ~~13-78 through 13-998~~-290 through 8-310. Reserved.

~~ARTICLE III~~DIVISION 4. FLEA MARKET OPERATORS.

~~**Sec. 13-100. Purpose; function.**~~

~~This Article is adopted in order to promote the health, safety, morals and general welfare of the inhabitants of Fayette County, Georgia, by regulating the location, design and maintenance of flea markets.~~

Sec. ~~13-101~~8-311. Definitions.

Unless the context of this ~~Article~~ Division requires, the following definitions shall be used in the interpretation and administration of this ~~Article~~Division. Words used in the present tense include the future; the singular number shall include the plural and the plural the singular; and the word "shall" is mandatory and not optional.

Booth shall mean a designated space or a structure constructed for the purpose of displaying and selling merchandise within a flea market.

Flea market shall mean any business whereby there is operated a center for shopping where a vendor or vendors sell merchandise to the public including salvage operations, antique stores, thrift stores, jewelry stores, coin shops, clothing shops or other businesses involving the sale of common merchandise.

Flea market operator shall mean any person operating, maintaining and promoting a flea market.

Flea market vendor shall mean any person renting a booth from a flea market operator for sales to the public of new and used merchandise.

Sec. ~~13-102~~8-312. Exclusions.

~~All temporary fund-raising events which involve the sale of merchandise by school, church or nonprofit organizations shall be exempt from the coverage of this Article.~~

These regulations shall not apply to the following:

(a) An annual fund-raising event which is organized for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers or the gross receipts or net earnings from the sale or exchange of personal property, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event;

(b) An antique mall where all sales transactions are through the antique mall operator;

(c) An arts and crafts fair where the sale of such is by a person or persons who produced such arts and crafts;

(d) A farmer's market where persons offer the sale of agricultural products including value-added agricultural products and; or

(e) A County sponsored event.

Sec. ~~13-103~~8-313. ~~Permit~~ License requirement.

It is unlawful for any person to locate a flea market or to construct, alter or extend any flea market within the limits of unincorporated Fayette County unless a valid ~~permit~~ license is issued by the Code Enforcement Department for Fayette County. Construction, if necessary, must begin within one hundred eighty days after issuance of the ~~permit~~license.

Sec. ~~13-104~~8-314. Applications.

(a) All applications for ~~permits~~ licenses for flea markets shall be submitted to Code Enforcement on a form prescribed by Code Enforcement. Said application shall include, but not be limited to, the following:

(1) Name and address of the applicant; if the applicant is a partnership, the names and addresses of the partners; if the applicant is a corporation, the names and addresses of the officers and directors;

(2) Name and address of the owner of the land upon which the flea market is to be located. In the event that the applicant intends to locate and/or operate a flea market on leased property, a copy of the lease shall be submitted with the application. If, however, the property is owned by the applicant, said applicant shall attach to the application a copy of the deed conveying title unto the applicant;

(3) Telephone number of the applicant;

~~(4) A list of references, including banking institutions and character references;~~

~~(5) Social security number of the applicant;~~

(4) The affidavit of each person whose name appears on an application for a license pursuant to subsection swearing that such person has not been convicted of or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application or been convicted of or entered a plea of nolo contender to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs.

(5~~6~~) Date of birth and identification (i.e., driver's license) of the applicant;

(6~~7~~) Fingerprints of applicant;

~~(8) The location and legal description of the flea market; and~~

~~(9) A drawing or sketch showing the location of the flea market and design of parking spaces.~~

(b) All applications for a license to operate a booth within a flea market shall be submitted to Code Enforcement on a form prescribed by Code Enforcement. Said application shall include, but not be limited to, the following:

(1) Name and address of the applicant; if the applicant is a partnership, the names and addresses of the partners; if the applicant is a corporation, the names and addresses of the officers and directors;

(2) Name and address of the flea market within which the booth will be located;

(3) Telephone number of the applicant;

~~(4) A list of references, including banking institutions and character references;~~

~~(5) Social security number of the applicant;~~

(4) The affidavit of each person whose name appears on an application for a license pursuant to subsection swearing that such person has not been convicted of or entered a plea of nolo contendere to any felony within five (5) years prior to the date of the application or been convicted of or entered a plea of nolo contender to any misdemeanor involving crimes of moral turpitude, gambling, sexual offenses, assault, battery, any violation of the "Family Violence Act", or illegal drugs.

(5~~6~~) Date of birth and identification (i.e., driver's license) of the applicant; and

(6~~7~~) Fingerprints of applicant.

Sec. ~~13-105~~8-315. License.

(a) Any person, firm, organization or corporation conducting a flea market on property located within the unincorporated portion of Fayette County shall obtain a license for such flea market and shall pay a yearly license fee adopted as part of a schedule of fees by the Board of Commissioners.

(b) Any person, firm, organization or corporation operating a booth within a flea market located within the unincorporated portion of Fayette County shall obtain a license for such booth and shall pay a yearly license fee adopted as part of a schedule of fees by the Board of Commissioners.

Sec. ~~13-1068~~-316. Inspections.

(a) The Fayette County Sheriff's Department is authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ~~Article~~Division.

(b) The Fayette County Sheriff's Department shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to enforcement of this ~~Article~~Division.

(c) The Fayette County Sheriff's Department may request inspections by and verifications of compliance from the Department of Health relating to any of the rules and regulations of the State and/or local health department. Representatives of the Department of Health shall have the same powers of entry and inspection as provided for the Fayette County Sheriff's Department.

Sec. ~~13-1078~~-317. ~~Revocation~~Suspension and revocation.

Immediate suspension, revocation, or forfeiture of a license shall occur only after notice and opportunity for a hearing before the Board of Commissioners consistent with the procedures set forth in this Division and only upon the following occurrences:

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

(b) Except as provided in this Division, any change in the ownership of any entity operating or owning a licensed outlet shall be grounds for revocation of the license by the Board of Commissioners.

(c) A license shall be immediately suspended or revoked by the Board of Commissioners 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 Division.

(d) The Board of Commissioners shall immediately suspend or revoke the license of any licensee who does not meet the qualifications set forth in this Division at any time such information becomes known to the Board of Commissioners.~~(a) Any permit for a flea market may be revoked when it is found to be in violation of this Article.~~

~~(b) Should the Board of Commissioners find that conditions exist which are in violation of any provision of this Article, it shall give notice to the permittee or owner that unless such conditions or practices are corrected within thirty (30) days, the permit will be revoked. Notice shall be served either personally or by certified mail, return receipt requested.~~

~~(c) If at the end of the thirty (30) days a further inspection reveals that the conditions or practices have not been corrected, the Board of Commissioners shall then revoke the permit and give notice of such suspension in writing to the permittee or owner. Upon notice of revocation, the permittee or owner shall cease operation and/or construction of the flea market.~~

Sec. 8-318. Appeal procedure.

(a) Upon receipt of a timely appeal of an administrative denial, or upon alleged violation of those items in Section 8-314, the County Administrator or his or her designee shall schedule a hearing before the Board of Commissioners and provide written notice to the adverse party of the time, place and date of the scheduled hearing. The County Administrator or his or her designee shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the County Attorney and the adverse party and/or counsel for the adverse party.

(b) The Board of Commissioners shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.

(c) At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his or her case, to rebut the allegations made against him or her, and present whatever defenses he or she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses. An opportunity for rebuttal shall be provided.

(d) At the conclusion of the hearing, the findings and conclusions of the Board of Commissioners shall be forwarded to the County Administrator or his or her designee and it shall be the duty of County Administrator or his or her designee to provide written notification via certified mail to the adverse party of the decision of the Board of Commissioners.

(e) The decision of the Board of Commissioners shall be final unless appealed to the Superior Court of Fayette County within thirty (30) days of receipt by the adverse party of the written notification of the decision of the Board of Commissioners.

Sec. ~~13-1088~~-319. Minimum size of booths.

The minimum size of a booth within a flea market shall be ten feet (10') by ten feet (10').

Sec. ~~13-1098~~-320. Structural requirements.

All flea markets shall be within a permanent structure which meets the minimum standards of the applicable Fayette County Building Code. Move-in buildings or temporary structures of any type are prohibited.

Sec. ~~13-1108~~-321. Exterior of structure.

There shall be no displays permitted on or around the outside of the structure which houses a flea market.