

City of Houston, Texas, Ordinance No. 2013-_____

AN ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CRAFTED PRECIOUS METALS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, in an effort to prevent the theft and destruction of precious metals and to recover stolen precious metals, the Houston Police Department (“HPD”) formed the Precious Metals Unit of the Burglary and Theft Division; and

WHEREAS, HPD’s Precious Metals Unit monitors businesses that buy and sell crafted precious metals and investigates thefts, purchases, and sales of such metals; and

WHEREAS, Texas Occupations Code provisions relating to crafted precious metals were significantly revised in the 82nd Legislative Session; and

WHEREAS, the proposed code revisions will update the Code of Ordinances to be consistent with Texas Occupations Code provisions; and

WHEREBY, the recordkeeping requirements of the proposed revisions will provide HPD with additional tools to use when investigating thefts of crafted precious metals; and

WHEREAS, HPD has worked with stakeholders in the crafted precious metals industry and the state’s Office of Consumer Credit Commissioner to develop the proposed revisions to the Code of Ordinances; and

WHEREAS, the Public Safety Committee of the City Council recommends adoption of this ordinance; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Section 7-1 of the Code of Ordinances, Houston, Texas, is hereby amended by amending the definitions of the terms *antique dealer* and *chief of police* to read as follows:

“*Antique dealer* means any person who engages in the business of buying, selling, trading, or otherwise dealing in used items which, because of age or design or quality or intrinsic beauty, or rarity or demand or otherwise have a value enhanced over the original value of the goods.”

“*Chief of police* means the chief of police for the City of Houston and persons he may designate to perform his duties under this article.”

Section 3. That Section 7-1 of the Code of Ordinances, Houston, Texas, is hereby further amended by adding, in alphabetical order position, two new definitions that read as follows:

“*Clear thumb print impression* means an intentional digital recording of the friction ridge detail on the volar pads of the thumb.”

“*Web-based database* means an electronic reporting system approved by the chief of police that is capable of transmitting information and responding to input on the internet.”

Section 4. That Section 7-1 of the Code of Ordinances, Houston, Texas, is hereby further amended by deleting the definitions of the terms *precious metals* and *precious metals dealer*.

Section 5. That Sections 7-3 and 7-4 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“Sec. 7-3. Penalty for violation of any portion of this chapter.

Any person who owns or operates any business governed by this chapter but does not have a valid license therefor or any person who shall violate any portion of this chapter shall be guilty of a misdemeanor and, upon conviction thereof shall be punished by a fine of not less than \$100.00 nor more than \$500.00. Each day the owner/operator/person permits the sale or purchase of any goods from the unlicensed business or violates any provision of this chapter shall constitute a separate offense.

Sec. 7-4. State law/city retention periods.

Any retention periods required by this chapter are not meant to replace any required retention periods provided by state law; in the event there is a conflict between retention periods provided for in this chapter and retention periods required by state law, the longer retention requirements shall apply.”

Section 6. That Article I of Chapter 7 of the Code of Ordinances, Houston, Texas, is hereby amended by adding new Sections 7-6 and 7-7 that read as follows:

“Sec. 7-6. Reports of property suspected stolen; purchase of city property.

(a) It shall be the duty of the licensee, his agents, or employees to immediately report to the police department any offer to sell to the licensee, his agents, or employees property which the licensee, his agents, or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. The licensee, his agents, or employees shall also report any property acquired by the licensee which the licensee, his agents, or employees subsequently determine or reasonably suspect to be stolen property and shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any licensee, his agents or employees to purchase an item of property on which are written or affixed the words ‘Property of the City of Houston’ or other words demonstrating ownership by the city except in the following circumstances:

- (1) When the person offering the property for sale is an employee of the city who is authorized to make the sale by the director of the department of administration and regulatory affairs or the director of the department of public works and engineering pursuant to chapter 2, article IV of this Code, and provides the licensee, his agents or employees with a written authorization for the sale of the property from his department’s director or the director’s designee; or
- (2) When the person offering the property for sale presents at the time of the offer a valid receipt from the department of administration and regulatory affairs or the department of

public works and engineering, pursuant to chapter 2, Article IV of this Code, evidencing the purchase of the property.

Sec 7-7. Process for revocation of license; appeal.

(a) A license issued pursuant to this chapter may be revoked without refund of any portion of the license application or renewal fee.

(b) The director shall give written notice of revocation to the licensee by certified mail, return receipt requested, and by regular mail, setting forth the grounds for revocation and the opportunity to request a hearing regarding the revocation. A revocation hearing based upon the licensee's conviction of a criminal offense shall be conducted in accordance with section 1-9 of this Code and applicable state laws.

(c) If the licensee wishes to request a hearing, the request must be made in writing and provided to the director within 10 business days of the date of the director's notice of revocation. The hearing shall be conducted within 15 business days of the director's receipt of the request. If the licensee does not request a hearing within 10 business days, the revocation is effective on the 11th business day after the date of the director's revocation notice.

(d) The hearing shall be conducted by a hearing officer appointed by the director, who shall revoke the license if he determines by a preponderance of the evidence that grounds exist for revocation. At the hearing, the licensee may be represented by an attorney, present evidence, and cross-examine witnesses.

(e) The hearing officer shall give written notice to the licensee of his findings as to whether or not the license should be revoked and the reasons therefor. The notice shall be by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than 30 days thereafter. The decision of the hearing officer shall be final."

Section 7. That the title of Article II of Chapter 7 of the Code of Ordinances, Houston, Texas, is hereby amended to read: "**ANTIQUA, RESALE MEDIA AND CLOTHING DEALERS.**"

Section 8. That Sections 7-16 and 7-17 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“Sec. 7-16. Definitions.

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

Licensee means any person licensed as a secondhand reseller pursuant to article III of this chapter, or as an antique dealer or resale media and clothing dealer pursuant to this article.

Resale media and clothing dealer means any dealer who deals exclusively in:

- (1) Used books, magazines and other printed documents;
- (2) Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and/or
- (3) Used items of clothing, except those made in whole or in part from fur, but not in any other items, goods, products, wares, clothes or articles which are subject to regulation under this article.

Sec. 7-17. License required; display.

No person shall operate as an antique dealer or resale media and clothing dealer, own any such business, or engage in the business of buying, trading, or otherwise receiving used books, magazines and other printed documents, or used items of clothing (except those made from fur), unless he is licensed pursuant to this article, is licensed as a secondhand reseller pursuant to article III of this chapter, is licensed as a pawnbroker pursuant to state law or is acting in the employment of one licensed under one of the above-listed laws. A separate license shall be required for each permanent location of any such business. A license issued under this subsection shall be marked to indicate that the business is authorized to deal only in the items listed in this subsection (or as a secondhand reseller pursuant to article III of this chapter) and shall be posted in a conspicuous place upon the licensed premises.”

Section 9. That Items (1), (2), and (3) of Subsection (a) of Section 7-18 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- “(1) The full name of the applicant, the street address where the business is to be located, and the residence address of each owner, manager and operator of the business;
- (2) The application form shall be accompanied by an affidavit, sworn to by the applicant, that neither he nor any business partner, nor, in the case of a corporation, any corporate officer, has had a license revoked under this chapter or any preceding city ordinance governing the business described herein;
- (3) Whether any owner or operator is an individual, partnership, corporation, or other legal entity; provided, however, that the type of business organization shall include only those organizations recognized by the Texas Business Organizations Code (“BOC”), and if the organization is a foreign entity required to register under Chapter 9 of the BOC, full and complete copies of such organization’s current registration;”

Section 10. That Subsection (a) of Section 7-18 of the Code of Ordinances, Houston, Texas, is hereby amended by adding the word *and* after the semicolon at the end of Item (7) thereof.

Section 11. That the first sentence of Subsection (b) of Section 7-18 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Upon receipt of the application, the director shall investigate the items sworn to by affidavit.”

Section 12. That Subsection (c) of Section 7-18 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the last sentence thereof.

Section 13. That Subsection (b) of Section 7-19 of the Code of Ordinances, Houston, Texas, is hereby amended by adding the words *or purchase* after the word *sell* in the first sentence thereof.

“(b) Any dealer described herein who desires to sell or purchase items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. The daily license fee for each show is stated for this provision in the city fee schedule.”

Section 14. That Subsections (a), (b), and (d) of Section 7-20 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“(a) Every person engaged in the business of buying, trading or otherwise receiving antique items shall keep at his place of business a record book, in a form approved by the chief of police, in which he shall enter daily a full description of all personal property purchased or otherwise received at his licensed place of business. The description shall include the date and hour of receipt, the name and address of the person or place of business from which the item was received, and the driver's license or Texas personal identification certificate number of the person selling or otherwise giving the items. All entries in the record book shall be made legibly.

(b) In addition to the requirements set out in subsection (a) hereof, the property shall be fully described including, where customary in the business, the size, weight, material, length, number of items, capacity, and any other designations or descriptions customarily employed in the sale and purchase of the items.”

“(d) Every person engaged in the business of buying, trading or otherwise receiving antique items shall, upon request, submit and exhibit the various business records which are required to be maintained for inspection or copying to any peace officer or authorized inspector of the authorized inspector of the department of administration and regulatory affairs. Failure to maintain or to so permit the examination or copying of the records when required shall be a misdemeanor.”

Section 15. That Sections 7-22 through 7-25 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

“Sec. 7-22. Articles to be retained.

No antique dealer or resale media and clothing dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for 72 hours after receipt. During the 72-hour period, all items of property shall be

stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. The property shall not be kept so as to prevent or impede its examination hereunder.

Sec. 7-23. Purchasing or receiving goods of minors.

No antique dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing that the transaction is taking place with the parent's or guardian's full knowledge and consent. It shall be the duty of the antique dealer to preserve and keep on file, and available for inspection, the written statements of consent.

Sec. 7-24. Change in business address.

Should any person licensed under this article move his permanent place of business from the place designated in the license to a new address, he shall immediately give written notice to the director and have the change noted on his license. The fee stated for this provision in the city fee schedule, payable to the director, is hereby levied for the change.

Sec. 7-25. Revocation of license.

A license may be revoked in the manner provided in section 7-7 of this Code if:

- (1) Any information supplied in the permit application was materially false or incorrect;
- (2) The license was issued as a result of error; or
- (3) The licensee has violated the provisions of this chapter or any state or federal statute involving the criminal offense of theft, or Texas Penal Code section 37.09 or 37.10."

Section 16. That Sections 7-26 and 7-27 of the Code of Ordinances, Houston, Texas, are hereby repealed.

Section 17. That Section 7-28 of the Code of Ordinances, Houston, Texas, is hereby redesignated as Section 7-26.

Section 18. That Chapter 7 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article IV that reads as follows:

“ARTICLE IV. CRAFTED PRECIOUS METALS DEALERS

Sec. 7-81. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings assigned to them in this section, except where the context clearly indicates a different meaning:

Crafted precious metal means jewelry, silverware, an art object, or another object made wholly or partly from precious metal, other than a coin, a bar, a commemorative medallion, or scrap or a broken item selling at five percent or more than the scrap value of the item.

Dealer means a person licensed to engage in the business of purchasing and selling crafted precious metal (including purchases or sales made through the mail), except for coins, bars, commemorative medallions, or items that the dealer purchases for five percent or more than the scrap value.

Licensee means any person licensed as a dealer pursuant to this article.

Permanent registered location means a location where a crafted precious metals dealer engages in the business of buying crafted precious metal for one year or longer.

Precious metal means gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals.

Scrap value means the value at which an item would be purchased by a person who will melt the item or otherwise transform it so that it will not be used for its original purpose.

Tableware means any flatware, dishes, serving pieces or other items designed or intended to be used in connection with the serving or eating of food when the items are made of any precious metal or wholly or partially plated with a precious metal.

Temporary dealer means any person who conducts business as a dealer in the city for a period of time not to exceed

one year but does not have a permanent place of business in the city.

Sec. 7-82. License required; display, exceptions.

(a) No person shall operate as a dealer or own any such business or engage in the business of buying, trading, or otherwise receiving jewelry, used tableware, or other used items containing precious stones or made of or plated with precious metals unless he is licensed pursuant to this article, is licensed as a pawnbroker pursuant to the statutes of the state or is acting in the employment of one licensed under one of the above-listed laws. A separate license shall be required for each permanent location of any such business. A license issued under this subsection shall be marked to indicate that the business is authorized to deal only in the items listed in this article and shall be posted in a conspicuous place upon the licensed premises.

(b) A dealer must provide and display valid city and state license numbers on all forms of advertisement (i.e., print, video, internet, and radio) for business conducted within the city limits.

(c) Exceptions to the applicability of this article are as provided in the Texas Occupations Code, Chapter 1956, Subchapter B.

Sec. 7-83. Application for license.

(a) Any person desiring a license required by this article shall make application therefor in writing to the director on an application form provided for that purpose. On the application, the applicant shall provide the following information:

- (1) The full name of the applicant, the street address where the business is to be located, and the residence address of each owner, manager and operator of the business;
- (2) Whether any owner or operator is an individual, partnership, corporation, or other legal entity; provided, however, that the type of business organization shall include only those organizations recognized by the Texas Business Organizations Code ('BOC') and authorized to engage in the type of business covered by this article, and if the organization is a foreign entity required to register under Chapter 9 of the BOC, full and complete copies of the organization's current registration;

- (3) If any owner or operator is a corporation, all officers of the corporation; and if there are fewer than five shareholders, the names of all shareholders;
 - (4) If any owner or operator is a partnership, the type of partnership and names and addresses of all general partners, and for limited partnerships, the names and addresses of all members;
 - (5) If any owner or operator is an unincorporated association, the names and addresses of all officers of the association;
 - (6) If any applicant does business under an assumed name as that term is defined in Texas Business and Commerce Code section 71.002, all assumed names used;
 - (7) The person responsible for the on-site day-to-day operation of the applicant's permanent registered location and a person responsible for each temporary location;
 - (8) The location where the business will be conducted, along with a copy of the certificate of occupancy for the location;
 - (9) The time period or periods during which the business will be conducted, including hours of operation;
 - (10) A copy of the certification of registration issued by the Office of Consumer Credit Commissioner (OCCC) of the State of Texas; and
 - (11) Any other information reasonably required by the director for the purpose of processing the application under the requirements of this article.
- (b) The application form shall be accompanied by an affidavit, sworn to by the applicant, (or declaration pursuant to Texas Civil Practice and Remedies Code sec. 132.001) acknowledging that the applicant:
- (1) Including his business partners, and, in the case of a corporation, all corporate officers, have not had a license revoked under this chapter or any preceding city ordinance governing the business described herein;
 - (2) Has read the application and agrees to all of its terms and provisions;

- (3) Affirms the correctness and accuracy of the information given on the application; and
- (4) Affirms that he has the authority to bind the applicant to all of the terms, provisions and requirements of the application.

Sec. 7-84. Temporary license.

A temporary dealer who wishes to purchase crafted precious metals in the city must apply for and secure a license for each location. An application for a temporary dealer's license shall be submitted as required in section 7-83, not later than 30 business days prior to the desired effective date of the license, and shall contain, for each location:

- (1) The approximate dates and hours of operation for each temporary location; and
- (2) The name of the person responsible for on-site operations and compliance with applicable laws at each temporary location.

Sec. 7-85. Issuance, denial, fees.

(a) Upon receipt of an application, the director shall investigate the items sworn to by affidavit or declaration. An application is complete when the application contains the information required by this article and is accompanied by the payment of the license fee.

(b) Within 30 days of receiving an incomplete application, the director will provide written notice to the applicant stating that the application is incomplete and specifying the additional information required for completion. If the director requests additional information and the applicant does not respond within 30 days, the application will be considered withdrawn, and the applicant must reapply to obtain a license.

(c) For temporary licenses, within 10 business days of receiving an incomplete application, the director will provide written notice to the applicant stating that the application is incomplete and specifying the additional information. If the applicant does not respond within 10 business days, the application will be considered withdrawn, and the applicant must reapply to obtain a temporary license.

(d) Upon receipt of a complete application for a temporary or permanent license, the director shall issue a license to the applicant unless:

- (1) The information provided in the application is materially false or incorrect;
- (2) The applicant has violated the provisions of this chapter;
- (3) The applicant or any of the applicant's principals are not in compliance with the criminal history provisions of section 1-10 of this Code; or
- (4) The applicant, his business partners or corporate officers have had a license revoked under this article or a preceding city ordinance governing the business described herein within the last five years.

(e) If the director denies the application, he shall give written notice by personal delivery or certified mail, return receipt requested, to the applicant at the address stated in the application. The written notice shall specifically set forth the reasons for the denial and shall be subject to an appeal pursuant to the procedures in section 7-7 of this Code.

(f) The annual fee for a license issued pursuant to this article for a dealer with a permanent place of business within the city is stated for this provision in the city fee schedule. The license, unless revoked, shall be valid for one year from the date of issuance.

(g) A temporary dealer shall pay the daily license fee for each show. The daily license fee is stated for this provision in the city fee schedule.

Sec. 7-86. Change in business name or address; notice.

(a) Should any person licensed under this article move his permanent place of business from the place designated in the license to a new address, he shall immediately give written notice to the director and have the change noted on his license. The fee stated for this provision in the city fee schedule, payable to the director, is hereby levied for such a change.

(b) The director will rely on the mailing and e-mail addresses currently on file to contact dealers. The failure to maintain a current

mailing or e-mail address with the director is not a defense to any action based on a dealer's failure to respond to notifications from the director.

Sec. 7-87. Use of license at shows, other locations.

Each licensee with a permanent business location in the city may use the license for that business when attending shows or conducting business at other locations in the city.

Sec. 7-88. Required recordkeeping; transaction report form, scrap value estimation, receipt.

(a) A dealer shall keep at his place of business a record of all purchases of crafted precious metals in a web-based database, in a form and method approved by the chief of police. The record shall be updated daily, with a full description in English of each transaction in which personal property is purchased or otherwise received at the dealer's licensed place of business.

(b) The dealer must prepare a transaction report form for each transaction. The report form shall be preprinted and pre-numbered, and shall contain all the following information:

- (1) The date of purchase.
- (2) The name and address of the dealer's permanent business location.
- (3) The name and address where the dealer purchased the crafted precious metal, if the location is different than the dealer's permanent business location and the transaction takes place in person.
- (4) The dealer's registration number.
- (5) The full name of the seller, as listed on the seller's driver's license or personal identification certificate as defined by Texas Occupations Code § 1956.001(8).
- (6) A physical description of the seller to include date of birth, height, eye color, and gender.
- (7) The physical address where the seller is residing at the time of the transaction.

- (8) The seller's driver's license number or personal identification number from the following unexpired forms of identification:
 - a. A driver's license number from Texas or another state within the United States;
 - b. An identification card issued by the Texas Department of Public Safety;
 - c. A United States military identification card; or
 - d. A United States passport or visa, or other identification issued by the United States government as described in the administrative rules promulgated pursuant to section 7-93 of this Code.
- (9) A clear digital photograph of the seller, in accordance with the administrative rules issued by the director and the chief of police.
- (10) A clear thumbprint from the seller.
- (11) The seller's certification that the seller's name and address, as well as the description of the crafted precious metal, are true and complete.
- (12) The seller's representation that the seller has the right to possess and sell the property.
- (13) A description of the crafted precious metal purchased by the dealer, accompanied by a clear digital image of each item purchased, including the:
 - a. Total number of items purchased by the dealer;
 - b. Type of each item (e.g., fork, tray, chain, ring);
 - c. Type, color and purity of each kind of metal purchased (e.g., 10 karat white gold, 0.925 sterling silver);
 - d. Weight in troy ounces, grams, or pennyweights for each kind of metal;
 - e. Amount paid by the dealer for each kind of metal;

- f. Color (e.g., clear, blue, green), number, and approximate size (e.g. small, medium, large) of any stones and which item(s) included those stones;
 - g. Size or length of each item (e.g., size 7, 18 inches);
 - h. Any discernible serial numbers;
 - i. Any engravings, inscriptions, distinctive markings, or designs;
 - j. Gender for which any jewelry item was manufactured, if identifiable; and
 - k. Any unique markings that are not visible and identifiable from the photographic images.
- (14) The total amount paid to the seller by the dealer.
- (15) The notice regarding oversight of precious metals dealers by the state's Office of Consumer Credit Commissioner and the office's contact information for consumer complaints as required by Title 7 of the Texas Administrative Code, Part 5, Ch. 85, Subch.B, Div. 2, Rule 85.2001(a).

Additional information is permissible on the transaction report form as long as it is not misleading with respect to rights arising under the law.

(c) The dealer shall maintain a scrap value estimation record for each purchase of crafted precious metal, including a reasonable good faith estimate of the each item's scrap value or the percentage of scrap value that the dealer will pay the seller. The scrap value estimation is not required on the seller's receipt copy of the transaction report form, but must be included on the dealer's copy, which must be maintained for a period of not less than three years, pursuant to Texas Occupations Code § 1956.063.

(d) The dealer shall submit the required records to the web-based database by the close of business on each day on which the dealer is open for business. Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew a dealer's license. Any person violating any provision of this section shall be punished as provided by section 1-6 of this code.

(e) The dealer, his agents, or employees shall supply a consecutively-numbered receipt to the seller or transferor of the property. The receipt shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. A printed version of the record input to the web-based database shall satisfy this requirement. An accurate copy or record of receipts shall be retained for a period of not less than three years.

(f) A dealer and every person engaged in the business of buying, trading or otherwise receiving crafted precious metals in any form shall, upon request, submit and exhibit the various business records required to be maintained under this section for inspection and copying to any peace officer or authorized inspector of the director. Failure to maintain or to so permit the examination or copying of the records when requested shall be a misdemeanor.

Sec. 7-89. Stock to be open for examination.

The stock or inventory of any dealer that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the department of administration and regulatory affairs. Failure to permit an examination when requested shall be a misdemeanor.

Sec. 7-90. Articles to be retained, placed on hold, exceptions.

(a) No dealer shall sell, dismantle, deface, melt, or in any manner alter or dispose of any item purchased or otherwise received at the dealer's licensed place of business for eleven days after receipt. During the eleven-day period, all items of property shall be stored or displayed at the dealer's permanent business location or in a secure location readily accessible to the dealer, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. The property shall not be kept so as to prevent or impede its examination hereunder and shall be available for inspection by a peace officer within 24 hours of a peace officer's request to inspect the property.

(b) A dealer may not melt, deface, alter, or dispose of crafted precious metal received by the dealer before the 11th day after the required report is filed unless:

- (1) The peace officer to whom the report is submitted, for good cause, authorizes the disposition of the metal;

- (2) The dealer obtains the name, address, and description and other information pertaining to the buyer as required in section 7-88(b) of this article and retains a record of that information; or
- (3) The dealer is a pawnbroker and the disposition is the redemption of pledged property by the pledger.

(c) A peace officer who has a reasonable suspicion that an item of crafted precious metal in a dealer's possession is stolen may place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that specifically identifies the item alleged to be stolen and subject to the hold, and informs the dealer of the requirements of this section.

(d) On receiving notice from a peace officer that an item is placed on hold, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or by court order.

(e) Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a dealer under this code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this code.

Sec. 7-91. Purchasing or receiving goods from minors.

No dealer shall purchase or otherwise receive in the course of his business any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing, that the transaction is taking place with the parent's or guardian's full knowledge and consent. It shall be the duty of the dealer to preserve and keep on file, and available for inspection, the written statements of consent, for a period of three years.

Sec. 7-92. Revocation of license.

(a) A license may be revoked pursuant to the procedures in section 7-7 of this Code if:

- (1) Any information supplied in the permit application was materially false or incorrect;
- (2) The license was issued as a result of error;

- (3) The licensee has failed to operate in compliance with any applicable provision of the license or this chapter; or
- (4) The licensee has violated the provisions of this chapter, or is not in compliance with the criminal history provisions of section 1-10 of this Code.

(b) A dealer whose registration has been revoked may not reapply for five years from the date of revocation.

Sec. 7-93. Administrative rules.

The director and the chief of police shall promulgate rules and regulations to administer the provisions of this ordinance. The rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the director and the office of the chief of police.”

Section 19. That Subsection (a) of Section 1-10 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Item (5) that reads as follows:

- “(5) Licenses issued to crafted precious metals dealers pursuant to Chapter 7 of this Code:
- a. Any violation of the ordinances or statutes regulating the purchase or sale of crafted precious metals.
 - b. Any offense involving fraud or misrepresentation.
 - c. Any offense involving theft, robbery, or burglary.
 - d. Any offense involving forgery.
 - e. Any offense involving a false report to a peace officer, federal special investigator or law enforcement employee as described in Chapter 37 of the Texas Penal Code.
 - f. Any offense involving tampering with or fabricating physical evidence as described in Chapter 37 of the Texas Penal Code.
 - g. Any offense involving tampering with a governmental record as described in Chapter 37 of the Texas Penal Code.

The above listed offenses shall be grounds for denial or revocation of, or refusal to renew a precious metals dealer's license issued pursuant to Chapter 7, Article IV, because the license allows persons to engage in a business in which there is a high degree of opportunity for unlawful practices relating to the crafted precious metals trade. The precious metals business also affords special opportunities for theft, fraud, and false reporting. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by these offenses."

Section 20. That Subsection (a) of Section 1-15 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the word *or* from the end of Item (7), replacing the period at the end of Item (8) with a semicolon followed by the word *or*, and adding a new Item (9) that reads as follows:

"(9) Licenses for crafted precious metals dealers issued pursuant to Article IV of Chapter 7 of this Code."

Section 21. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 22. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect

immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this ____ day of _____, 2013.

APPROVED this ____ day of _____, 2013.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

Prepared by Legal Dept. _____
TBC:asw 1/09/2013 Senior Assistant City Attorney
Requested by Charles McClelland, Chief of Police
L.D. File No. 0621200483001