



Legislation Text

File #: O-17-50, Version: 4

CITY of ALBUQUERQUE
TWENTY SECOND COUNCIL

COUNCIL BILL NO. C/S(3) O-17-50 ENACTMENT NO. _____

SPONSORED BY: Diane G. Gibson

ORDINANCE

C/S(3) Amending The City Of Albuquerque Code Of Ordinances Article 6 In Chapter 13 ROA 1994, The "Pawnbroker Ordinance" (Gibson)

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. Chapter 13, Article 6, Section 2 of the Revised Ordinances of Albuquerque, the "Pawnbroker Ordinance" is hereby amended as follows:

§ 13-6-2 PURPOSE.

The purpose of this article is to ~~regulate those businesses which [primarily] purchase, or receive through a pawn transaction, used merchandise from the general public.~~

(1) Ensure a sound system of making loans against, or acquiring through purchase and disposition, tangible personal property by and through pawnshops; to prevent frauds, unfair practices, discriminations against, impositions on or abuses of the citizens of Albuquerque by requiring responsible buying practices among both businesses and consumers;

(2) Provide for licensing fees, investigation fees, and minimum capital requirements of licensees;

(3) Promote financial responsibility to the city and its residents and compliance with city law;

(4) Assist law enforcement in the prevention of property crime and in the prosecution of property crime offenders; and

(5) Through this article, the City of Albuquerque intends to deter property crime by applying an even regulatory environment for a potential market for stolen goods.]”

SECTION 2. Chapter 13, Article 6, Section 3 of the Revised Ordinances of Albuquerque, “definitions” within the “Pawnbroker Ordinance” is hereby amended to add the following definitions, to be inserted alphabetically with existing definitions (all other definitions to remain unless specifically repealed or amended herein):

“§ 13-6-3 DEFINITIONS.

[CLAIMANT: A person who claims that his or her property was misappropriated.

INVENTORY: Any and all items within the store premises or within any storage space that are, or are anticipated to be held or acquired by the pawnbroker through a loan or purchase.

~~ITEM. In addition to meaning an individual item, include a coherent unit, such as a tool set with tool box, for purposes of recording and reporting requirements of this article, provided that the contents of such units are reasonably described therein.~~

~~PAWNBROKER: Any person, firm or corporation who:~~

- ~~(1) Engages in the business of lending money on the deposit or pledge of personal property;~~
- ~~(2) Purchases personal property with the expressed or implied agreement or understanding to sell it back at a stipulated price; or~~
- ~~(3) Engages in the business of purchasing items of gold, silver, platinum or other precious metals or gems and reselling the product.~~

~~This definition shall include such person's agents or employees or dealers in the above items. Every person permitted by the city of Albuquerque to engage, in whole or in part, in the business of loaning money on the security of pledged goods, deposits, and conditional sales of personal property.~~

PAWN UNIT OFFICER: Any sworn officer within the Pawn Unit or Property Crimes Division of the Albuquerque Police Department, or any officer specifically assigned to the enforcement of this ordinance.

~~PERMIT HOLDER. Every person, firm or corporation to whom a permit has been issued pursuant to this article including such person's agents, servants or employees.~~

PERMITTED VENDOR: A vendor who furnishes new or used inventory to a pawnbroker with an invoice specifying the vendor's name, the date of the sale, and who has an established place of business or is permitted under this ordinance,

PERSON: Any individual, partnership, corporation, firm or association or any combination thereof. An individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

PLEDGED GOODS: Tangible personal property other than, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with the pawn transaction.

SOLD GOODS: Goods transferred into the ownership of a pawnbroker by means of purchasing, selling, trading, consignment selling, or otherwise transferring for value.

STORE PREMISES: The total area occupied by the pawnbroker at the address on the city-issued permit; including the physical building space at the permitted location together any associated storage spaces, buildings or containers whether inside or outside of the main building, and any outdoor space leased, occupied or otherwise controlled by the pawnbroker in association with the permitted location, other than parking lots reserved exclusively for patrons or the general public.

STORAGE SPACE: Any type of container or space such as a safe, closet, storage room, unit, lock box, trailer, outbuilding, or the like that is within, attached to, or associated with the store premises.

TRANSACTION: A pledge, or the purchase of, or consignment of, or the trade of any item of personal property by a pawnbroker from a member of the general public.]”

SECTION 3. Chapter 13, Article 6, Sections 4 through 15 of the Revised Ordinances of Albuquerque, the “Pawnbroker Ordinance” are hereby amended as follows:

“§ 13-6-4 PERMITS REQUIRED; [INSPECTION PERMIT] FEE; PENALTY.

~~[(A) Every pawnbroker shall obtain a permit from the Mayor and the permit shall be conspicuously displayed in the person's place of business. The permit will expire on July 1 of each year and must be renewed by that date.~~

~~(B) Every pawnbroker shall pay an inspection fee of \$100 each year to cover the expense of administration of this article.~~

~~(C) Doing business as a pawnbroker without a permit, constitutes a misdemeanor and is subject to the penalty provisions set forth § 13-6-99.~~

No person shall act as a pawnbroker, or advertise, transact, or solicit business as a pawnbroker, without first having obtained a permit from the City of Albuquerque. A person shall obtain a separate permit for each place of business at which the person acts or transacts business as a

pawnbroker.

(A) The permit shall be conspicuously displayed in the pawnbroker's place of business. The permit will expire on July 1 of each year and must be renewed by that date.

(B) Every pawnbroker shall pay a permit fee of \$500 at the time of issuance of the initial permit and at the time of each annual renewal to help cover the expense of administration of this ordinance.

(C) Any person doing business as a pawnbroker without a permit, is guilty of a misdemeanor and is subject to the penalty provisions set forth in §1-1-99.

(D) A person must apply to the City of Albuquerque for a new permit upon any change, directly or beneficially, in the ownership of any pawnshop. An application for a permit or an application to transfer an existing permit is not required upon any change, directly or beneficially, in the ownership of a pawnshop if one or more holders of at least 90 percent of the outstanding equity interest of the business before the change in ownership continue to hold at least 90 percent of the outstanding equity interest after the change in ownership.

(E) Any person who is declined a permit or permit renewal is entitled to a hearing a prescribed under subsection 13-6-10(C) of this ordinance.]

§ 13-6-5 ADMINISTRATION; APPLICABILITY OF OTHER LAWS.

The Mayor shall adopt such rules and regulations as necessary for the equitable administration of this article. The permit provided for in this article does not constitute a waiver of any requirement or provision contained in any ordinance of the city or state or federal law.

§ 13-6-6 BOND REQUIRED.

No person shall engage in the business of pawnbroker without having executed and delivered a bond to the city in the sum of \$5,000. The bond shall be in a form approved by the Mayor and shall be conditioned upon the conduct of such pawnbroker's business according to the provisions of this article, the laws of the state and all ordinances of the city. Such bond shall be for the benefit of each and every person damaged by a breach of any condition set forth in the bond. Every pawnbroker shall provide the Mayor with 30 days' notice in writing of cancellation of bond.

§ 13-6-7 APPLICATION FOR PERMIT; REQUIREMENTS [AND ELIGIBILITY].

(A) [Application Requirements.] Each application for an original ~~[or a renewal]~~ permit shall be submitted in writing to the Mayor ~~[and contain such information as is required by the Mayor,]~~ and be accompanied by the ~~[applicable inspection permit]~~ fee ~~[amount and the name, address, date of birth and social security number of the applicant and each agent, servant and~~

employee of the applicant.

~~(B) Each application shall be accompanied by the name, address and date of birth of each agent, servant and employee of the applicant.] Changes in such list must be indicated on each renewal application.~~

~~[(G)] Every pawnbroker shall furnish with each application for an original or renewal permit proof of execution and delivery of the bond to the City Clerk's Office as required in § 13-6-6.~~

~~[(B) To be eligible for a pawnbroker's permit, at the time of each application or renewal, an applicant must conduct business lawfully and fairly within the purposes and requirements of this ordinance, and never have had a pawnbrokers permit revoked by the City or any other jurisdiction;~~

~~(C) The City shall perform a criminal background check on each applicant for a pawnbroker's permit. In deciding whether to issue a pawnbroker's permit, the City shall consider any criminal background and may deny a permit to an applicant based on criminal history only as regulated and authorized by New Mexico Criminal Offender Employment Act., NMSA 1978 § 28-2-1 et. seq. However, no person who has been convicted of a felony shall be eligible for a permit pursuant to NMSA 1978 § 56-12-4.]~~

~~§ 13-6-8 [REVOCATION OF PERMIT; NOTICE; HEARING.~~

~~(A) The Mayor may institute proceedings for the suspension or revocation of any permit issued pursuant to this article upon the filing of a written complaint by the Chief of Police or his designated representative charging the permit holder, or an employee thereof, of having violated any one or more provisions of this article.~~

~~(B) The Mayor shall serve written notice upon the permit holder of the alleged violation. The notice requirement is satisfied if personal service of same is had upon the holder of the permit or is posted in a conspicuous place upon the permit holder's place of business.~~

~~(C) The Mayor shall set a date for hearing on such complaint not more than ten days, nor less than five days, after the date of notice unless waived by all parties thereto. The notice provided for in division (B) above shall specify the date and time of the hearing.~~

~~(D) The permit holder, and any other interested person, [shall] have the right to appear at such administrative hearing and produce evidence. The rules of evidence shall not apply. If, after holding said hearing, the Mayor determines that the permit holder is in violation of the provisions of this article, as charged in complaint, the Mayor shall issue a written order. The order may suspend the permit for a stated period of time or permanently revoke said permit. The Mayor shall cause such order to be served upon the permit holder and filed in the office of the City~~

~~Clerk for public inspection within five business days after the hearing. Service of the order on the permit holder shall be as specified in division (B) above and the official serving such order shall have the authority to remove the permit from the premises and deliver same to the Mayor. This hearing shall be the final administrative remedy.~~

~~“§ 13-6-9]RECORDS [AND REPORTS] BY PAWNBROKERS;[VIOLATION PENALTIES].~~

~~(A) Every pawnbroker shall keep a record legibly written or typed of each transaction made [for every pledged or sold good with a resale value in excess of ten dollars (\$10)] in the order in which each occurs. [Each entry shall include a description of the goods, article or item pawned, pledged, purchased or otherwise received, including serial number and any other identifying mark, date and time of the transaction, and the name and address of the person offering the same. The record shall be made on a form in the format, color and size approved by the Chief of Police, and the forms shall be preserved and made accessible for a period of two years. Notwithstanding the foregoing, all items of jewelry or precious metal, whether scrap or otherwise, must be recorded regardless of value.]~~

~~(B) [Persistent or frequent erroneous, or incomplete entries in the above required records shall constitute a violation of this section. The record shall be made on a digital form or database in the format, color and size approved by the Chief of Police, and shall be preserved and made accessible to any pawn unit officer by 12:00 noon of the pawnbroker's next business day after the pledged or sold goods were received by the pawnbroker, and remain so available during normal business hours for a period of two years. Each entry must also be uploaded or otherwise linked to the Albuquerque Police Department's electronic "leads online" system or any future equivalent administered by the Department by 12:00 noon of the pawnbroker's next business day following the day of the transaction. Each entry shall include:]~~

~~[(1) a transaction number, and the date, time and type of transaction (loan or purchase);~~

~~(2) a clear and accurate description of the pledged or sold goods; including make, model and serial number (if available);~~

~~(3) The name, residence address if applicable, and the date of birth of the pledger or seller, as indicated on a valid government issued photo identification card; type of identification card, jurisdiction and the identification number;~~

~~(4) A description of the pledger or seller including approximate height, weight, gender and race or ethnicity if available;~~

(5) A clear, discernible, color still image of the pledger or seller that clearly depicts a full face view of the person;

(6) A discernible color photograph of the pledged or sold good, together with a discernible photograph of the complete serial number associated with the item when available;

(7) a thumbprint of the person from which the piece of pawn inventory was obtained with notation as to the hand from which the print came (right or left);

(D) Each pledged or sold good with a resale value in excess of ten dollars (\$10) shall have a tag attached thereto referencing the full transaction number required pursuant to subsection 'B (1)' above, except that:

i) All items of jewelry or precious metal, whether scrap or otherwise, must be tagged regardless of value; and

ii) Items purchased from a permitted vendor need not be tagged.

(E) In fulfilling the recordkeeping requirements of this subsection, pawnbrokers are required to obtain the personal identification information of pledgers and sellers (including thumbprint) only for the initial transaction so long as each subsequent transaction with the same pledger or seller is linked or otherwise gives reference to the personal information already on file with the pawnbroker. However, a still image of the pledger or seller must be collected at the time of each and every transaction.

(F) In addition to any other penalty authorized by this ordinance or other law, any person who knowingly and willfully violates this § 13-6-8, or who knowingly and willfully makes a false entry in any record specifically required by this section commits a violation punishable as provided in § 1-1-99. However, Clerical or recordkeeping errors, such as typographical errors or scrivener's errors, regarding any document or record required by this section do not constitute a knowingly and willful violation of this section, and are not subject to criminal penalties. Such errors are, however, subject to the administrative remedies of this ordinance, and upon written notification of the error by a pawn unit officer, such errors must be corrected by the pawnbroker by the next reporting period.]

§ 13-6-9 INSPECTION; PROPERTY CRIME DATA SHARING.

(A) Inspection. Any pawn unit officer may inspect any pawnbroker's entire store premises during normal business hours and have free access to all pledged or sold goods, and the corresponding transaction records required by this ordinance.

(1) The pawnbroker has the right to escort the pawn unit officer throughout the

inspection process.

(2) Any pawnbroker who fails or refuses to allow a pawn unit officer to inspect the entire store premises or examine or make copies of such corresponding transaction records required by § 13-6-9 is in violation of this ordinance.

(3) Each pawnbroker's system of records is in compliance with this ordinance so long as it contains and discloses the information required by § 13-6-9.

(B) Pawn unit officers, or any officer or employee appointed by the Albuquerque Police Department, shall coordinate with pawnbrokers to provide updates on current known property crime offenders and articles of personal property suspected to have been the subject of theft directly to all pawnbrokers as frequently as possible.

§ 13-6-10 [REPORTS BY PAWNBROKER; DELIVERY; VIOLATION.]

(A) Every pawnbroker shall each day accurately complete a report of all used property of every kind received or purchased during the preceding business day on a form approved by the Chief of Police. A photo identification card shall be required of each person pledging, pawning or selling merchandise to a pawnbroker. Each item received shall be listed on a separate report form. The report shall include the following:

(1) Name of item.

(2) Description of the item including make and model number, if any.

(3) Serial number and other identifying mark(s), if any.

(4) Date, time and type of transaction.

(5) Name and address of person offering the item.

(6) Description of the person offering the item including sex, complexion, hair color, approximate height and weight, and date of birth.

(7) Type of identification used by person offering item and identifying number of the identification. If the person presents a driver's license, the report shall also indicate the state of issuance.

(B) All reports required by this article shall be completed accurately and be made available by 12:00 noon of the day following the day that the property was received or purchased and said reports shall be delivered to the Albuquerque Police Department within three days of the receipt or purchase of the property.

(C) Used personal property purchased directly from another permit holder regulated by this article who has already reported the item pursuant to this section is exempt from the

~~requirements of this section.~~

~~(D) Persistent or frequent erroneous or incomplete entries in or delays in the submitting of the above required reports shall constitute a violation of this section.~~

~~(E) All businesses required to file reports as provided for in this article shall maintain a copy of each report for a period of at least one year from the date the reported transaction occurred.~~ NOTICE OF VIOLATION; NOTICE OF HEARING; HEARINGS; CONTINUANCE; ORDER; PENALTIES.

(A) Notice of Violation. If a pawn unit officer reasonably believes that the pawnbroker has violated any one or more provisions of this Article, such officer shall serve written notice upon the pawnbroker of the alleged violation (the "notice of violation"). The notice requirement is satisfied if personal service of same is had upon the pawnbroker or is posted in a conspicuous place upon the pawnbroker's place of business.

(1) The notice of violation shall specify the provisions of this ordinance which have been allegedly violated, and shall set forth with reasonable clarity the factual basis for each alleged violation, and shall state that an administrative hearing will be scheduled by the City and that a notice of the hearing will be mailed to the pawnbroker's place of business or address of record with the City by certified mail in accordance with this ordinance.

(2) The pawn unit officer shall provide the City Clerk with a copy of the notice of violation for transmission to the City Independent Office of Hearings within three business days of the notice of violation being served upon the pawnbroker.

(B) Hearing and Penalties Relating to a Notice of Violation.

(1) Hearing. The pawnbroker, and any other interested person, may appear and produce evidence at any administrative hearing relating to a notice of violation. The final order of the City's administrative hearing officer on such matter constitutes the final administrative adjudication of the matter by the City.

(a) Notice of Hearing. Within three business days of its receipt of the notice of violation, the City Independent Office of Hearings shall mail a notice of the hearing to the pawnbroker and the law enforcement officer who delivered the notice of violation via certified mail. The notice shall specify the location of the hearing, a date and time for the hearing that is between fifteen and twenty days from its mailing of the notice of hearing. Such notice shall briefly state the nature of the hearing and that failure to attend by the pawnbroker will result in an automatic fine.

(b) Continuance. A first continuance of the hearing may be ordered by the hearing officer assigned to hear the matter upon a showing of good cause by any party. Any subsequent continuance request may be granted only with the consent of all parties to the matter.

(c) Order. Within five (5) days of the conclusion of the hearing, the hearing office shall issue a final written order with findings of fact, conclusions of law, and the penalties authorized by subsection 'B(2)' below that are being imposed (if any) relating to the allegations from the notice of violation.

(2) Findings Required for Imposition of Penalty. The hearing officer may enter an order imposing one or more of the penalties set forth in paragraph (3), below, if it is found that a pawnbroker:

(a). Violated or is operating in violation of any of the provisions of this ordinance;

(b) Made a material false statement in any application, document, or record required to be submitted or retained under this section; or

(c) Refused or failed, or any of its principal officers has refused or failed, after notice, to produce any document or records pertaining to pawnbroker transaction or disclose any information required to be produced or disclosed under this section or the rules of this ordinance;

(3) Penalties. Upon making one of the findings described in subparagraph (1), above, the hearing officer may enter an order imposing one or more of the following:

(a). Ordering a pawnbroker to show proof of compliance within 7 days of notice;

(b) Imposing a fine for violations of this section, a penalty of no less than \$25 but no more than \$500 for a first violation, no less than \$200 but no more than \$1,000 for a second violation depending on the severity of the violation;

(c) Ordering that the pawnbroker cease and desist specified activities;

(d) Ordering that the pawnbroker's permit be revoked or not renewed. A third concluded violation within any twelve month period may result in revocation of a permit, or a penalty of no less than \$1,000 but no more than \$3,000. If revocation is ordered, it shall be effective no sooner than 120 days from the date of the order to allow for winding-down of the business including redemption of pawn inventory by rightful owners. No new loans or

purchases may be done during this time, only sales and redemption;

(e) Placing the pawnbroker on probation, subject to such conditions as the hearing officer may specify;

(C). Hearing and Penalties relating Permit Issuance or Renewal.

(1) After an initial denial of a pawnbrokers license or renewal by the City, the denied applicant may request a hearing. After notice and hearing, the City may decline to issue or renew a pawnbroker permit if it is determined that:

(a). The pawnbroker, either knowingly or without the exercise of due care, has violated this section or has aided or conspired with another person to violate this section;

(b). A condition exists that, had it existed when the permit was originally issued, would have justified the refusal to issue the permit;

(c). The pawnbroker no longer meet the eligibility requirements to hold a permit; or

(d). The pawnbroker has through gross negligence or willful noncompliance failed to comply with hold order.

(2) Any pawnbroker may surrender a permit by delivering it, by certified or registered mail, return receipt requested, to the City Clerk's Office with written notice of its surrender. The surrender of a permit does not affect the civil or criminal liability of the pawnbroker for acts committed before the surrender of the permit.

(3) The revocation or surrender of a permit does not impair or affect the obligation of any preexisting lawful contract between the pawnbroker and any pledger or seller. Any transaction made by a person with a person not lawfully permitted as a pawnbroker under this ordinance is voidable, in which case the person forfeits the right to collect any monies, including principal and any charges, from the pledger or seller in connection with such transaction and is obligated to return to the pledger or seller the pledged or sold goods in connection with such transaction.

(4) Under no circumstance may law enforcement infringe, on the customer's or pawnbroker's rights, any part of this section.

(D) Notwithstanding any other provision of this section, the City may terminate an investigation or action upon agreement by the pawnbroker to pay a stipulated civil penalty, to make restitution or pay damages to customers, or to satisfy any other relief authorized under this subsection and requested by the City.]

~~§ 13-6-11 [INSPECTION.~~

~~The reports and records of the permit holder required by this article [as well as every item received in pawn, pledge or on consignment or through purchase or exchange shall be available for inspection by the Mayor, the Chief of Police or any sworn member of the Albuquerque Police Department at all reasonable times.~~

~~§ 13-6-12]DISPOSITION OF PROPERTY[; PAYMENT FOR PROPERTY].~~

(A) No ~~[personal property pawned or]~~ pledged ~~[goods]~~ shall be sold or disposed of, except by redemption, by any pawnbroker within 120 days from the time ~~[said personal property it]~~ was ~~[pawned or]~~ pledged with the pawnbroker or within 90 days after the indebtedness becomes due, whichever is later.

(B) It ~~[shall be is]~~ unlawful for any ~~[permit holder pawnbroker]~~ to sell, ~~[allow]~~ or otherwise dispose off ~~[, alter in any way]~~ or remove from the ~~[permit holder's place of business pawnbroker's store premises]~~ any ~~[item of purchased used merchandise, sold goods]~~ within 15 days from the date said ~~[item was goods were]~~ received by the ~~[permit holder pawnbroker]~~. This ~~[excludes requirement does not apply to new]~~ items ~~[new, purchased directly from manufacturers or licensed distributors;]~~ items from other ~~[permit holders permitted vendors]~~ and/or licensed dealers, and those dealing in bullion and coinage.

~~[§ 13-6-13 USED MERCHANDISE TAGS.~~

~~Each item pledged to or purchased by the permit holder for which a report is required shall have attached thereto a tag with an alphabetic and/or numeric identification system matching the article with its corresponding report and record.~~

~~§ 13-6-14 LIMITATIONS AS TO PAWNOR.~~

~~It shall be unlawful for any pawnbroker to purchase or otherwise receive any item from the following:~~

~~(A) Any person under the age of 18.~~

~~(B) Any person under the influence of alcohol, any narcotic drug or stimulant or depressant.]~~

~~§ 13-6-[15 12] UNLAWFUL TRANSACTIONS.~~

~~[It shall be unlawful for any permit holder to purchase or otherwise receive any item of merchandise:~~

~~(A) From which the manufacturer's name plate, serial number or distinguishing number or identification mark has been obviously defaced, altered, covered or destroyed.~~

(B) ~~Which the permit holder knows or should have known is not lawfully owned by the person offering the same.~~

(A) No pawnbroker shall:

(1) Knowingly and willfully enter into a pawn transaction with a person under the age of eighteen years, or under the influence of alcohol, any narcotic, drug, stimulant or depressant or any person known to the pawnbroker as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years, whether the person is acting in his or her own behalf or as the agent of another;

(2) Receive any pledged or sold goods from any person identified in writing to the pawnbroker by the City, as a known or suspected thief or receiver of stolen property.

(3) Fail to exercise reasonable care to protect pledged goods from loss or damage;

(4) Remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number on an item of personal property that was purchased, consigned, or received in pledge. In addition an item shall not be accepted for pledge or purchase where the manufacturer's name plate, make, model, serial number, identification number or mark has been obviously defaced, altered, covered, removed, or destroyed;

(5) Purchase or otherwise receive any item of property which the pawnbroker knows is not lawfully owned by the person offering the same; or

(6) Willingly and knowingly make, cause, or allow to be made any false entry or misstatement of any corresponding transaction records required to be kept under this ordinance.

13-6-13 HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION; DISPUTED OWNERSHIP; PROCEDURES

(A) When any law enforcement officer has probable cause to believe that property in possession of a permitted pawnbroker is misappropriated, the officer may place hold order on the property.

(B) No pawnbroker shall release or dispose of property subject to a hold order except pursuant to a court order or a written release from the police department.

(C) Any property lawfully seized may be released to its rightful owner only with approval of the assigned detective and issuance of a property receipt.

(D) Where the rightful ownership of seized property is disputed, any interested person

may request a hearing to determine the issue of ownership before the City Independent Office of hearings by filing a request with the City Clerk's Office. Upon its receipt of such a request, the City Independent Office of Hearings shall notify the law enforcement officer involved in the matter, who shall deliver the contact information for all known interested parties within three days of being notified. Within three days of receiving this information, the City Independent Office of Hearings shall issue a notice of hearing to the officer and all known parties. The notice shall specify the location of the hearing, and a date and time for the hearing that is between fifteen and twenty days from its mailing of the notice of hearing. Such notice shall briefly state the nature of the hearing and that failure to attend by any party may result in a decision adverse to their interests.

~~§ 13-6-99 PENALTY.~~

~~Any permit holder who is found guilty of a violation of any provision of this article shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Any permit holder who violates any provision of this article shall be subject to having said permit revoked or suspended by the Mayor. Revocation or suspension of such permit will not bar prosecution of the permit holder under the penal provisions of this article. Criminal prosecution will not bar proceedings to revoke or suspend the holder's permit —.]”~~

SECTION 4. Severability Clause.

If any section, paragraph, sentence, clause, word or phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 5. Compilation. Sections 1 through 3 of this Ordinance shall amend, be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 6. Effective Date.

This ordinance takes effect ninety days after publication by title and general summary.