City of Phoenix
City Clerk Department
License Services

AUCTIONEER, AUCTION HOUSE, SCRAP METAL DEALER & SECONDHAND DEALER

License	Application Fee	Permit Fee 1st Year License	Annual Renewal	Approval Required
Auctioneer	$70.00	$30.00	$30.00	Police
Auction House	$135.00	$30.00	$30.00	Police & Planning
Scrap Metal Dealer	$180.00	$130.00	$130.00	Police & Planning
Secondhand Dealer	$130.00	$30.00	$30.00	Police & Planning

Pursuant to Phoenix City Code Section 19-5(C), application fees are not refundable.

To expedite service, please contact License Services and make an appointment.
Call (602) 262-4638 Option 4, between 8 a.m. and 5 p.m., Monday - Friday.
Application processing time frame: License Services will take action (approve or initiate denial) on a pending application within approximately 90 days from the date the application is received. This time frame includes: Processing fingerprints, Departmental Reviews, and License Services administrative review.

ARTICLE I. IN GENERAL

Sec. 19-1. Definitions.

In this Chapter, unless the context otherwise requires:

1. *Appliance* means an electrically-operated device that is primarily designed by the manufacturer to accomplish a routine task in the home such as cleaning, drying, pressing, cooking, preserving food, heating, or cooling. This term shall not include any device that is primarily used to transmit or record a digital or analog image or sound.

2. *Applicant* means the person who applies for a license pursuant to this Chapter.

3. *Auctioneer* means any person who, as a principal or agent, offers any article for sale by public outcry where the articles offered at auction are sold immediately to the highest bidder.

4. *Auction house* means any establishment in which is carried on the business of auctioning articles for sale by public outcry where the articles offered for auction are sold immediately to the highest bidder.

5. *Bullion coin* means a coin that is sold, traded or exchanged based upon the value of the metal it contains and not based upon its scarcity. For purposes of this definition only, the word “coin” includes a piece of metal stamped and issued by the authority of a government without a nominal value.

6. *Business records* means records of any purchase, trade, barter or other transaction that involves the receipt of scrap metals and that is made in the ordinary course of business at or near the time of the purchase, trade, barter or transaction including receipts, books or similar records as prescribed by Sections 19-76 and 19-77 of this Chapter, but do not include correspondence, tax returns or financial statements.

7. *City Clerk* means the City Clerk of the City of Phoenix or the City Clerk’s designee.

8. *Coin* means a piece of metal stamped and issued by the authority of a government for use as money.

9. *Commemorative medallion* means a small piece of metal that is professionally stamped or engraved on one or both sides with text, emblems and/or images commemorating an event, person, place or organization.

10. *Controlling person* means any person who has a twenty percent or greater interest in the ownership or the earnings of the applicant or mercantile business.

11. *Designated agent* means the individual designated by the applicant or licensee to receive city notices pursuant to this Chapter.

12. *Employ* or *employed* means to hire, or to engage the services of, without regard to compensation, any individual, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, trainee, student or otherwise.

13. *Ferrous metals* means those metals that will attract a magnet.

14. *Fair market value* means the amount at which property would change hands in an arm's length transaction between a willing buyer and a willing seller, neither being under any compulsion to act and with both having reasonable knowledge of the relevant facts.

15. *Firearm* means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive, except that it does not include a firearm in permanently inoperable condition.

16. *Household items* means furniture, furnishings, appliances and personal effects that are typically found in a home, excluding pianos and other musical instruments.

17. *Industrial account* means a person or business entity that files or is required to file monthly returns for that person's or entity's transaction privilege tax licenses or a governmental entity that sells scrap metal to a scrap metal dealer.

18. *Knowingly* means, with respect to conduct or to a circumstance described by an ordinance defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

19. *Licensee* means the person who applied for a license pursuant to this Chapter and in whose name a license has been issued by the City Clerk pursuant to this Chapter.

20. *Nonferrous metals* means those metals that will not normally attract a magnet, including copper, brass and aluminum.

21. *Manager* means an individual authorized by the licensee to exercise overall operational control of the business or to supervise employees.

22. *Mercantile business* means an auctioneer, an auction house, a scrap metal dealer, or a secondhand dealer.

23. *Owner-applied number* means any letters, words, numbers or other markings or engravings placed on an item other than the manufacturer's identification information.

24. *Pawnbroker* shall have the meaning as prescribed by Section 44-1621, Arizona Revised Statutes, as amended.

25. *Pawnshop* shall have the meaning as prescribed by Section 44-1621, Arizona Revised Statutes, as amended.

26. *Pawn transaction* shall have the same meaning as prescribed by Section 44-1621, Arizona Revised Statutes, as amended.

27. *Scrap metal dealer* means a person or business entity, including all employees of the person or business entity, except automotive recyclers as defined and licensed pursuant to Title 28, Chapter 10, Arizona Revised Statutes, and whose primary business is the dismantling, selling or disposing of parts or accessories of motor vehicles, engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or cast-off material of any kind, except used beverage containers, which is commonly known as scrap metal.

28. *Scrap metals* includes insulated and uninsulated metallic cables.

29. *Secondhand dealer* means any person who is engaged in conducting, managing, facilitating or carrying on the business of buying, selling, trading, exchanging, receiving on consignment or otherwise dealing in secondhand goods, wares, merchandise, or articles, whether such business be the principal or sole business so carried on, managed, or conducted or be merely incidental to, in connection with, or a branch or a department of some other business.

30. *Secondhand goods* means any new or used property that has been sold, traded, exchanged, consigned or otherwise disposed of by its original owner.

31. *Trade-in* means the exchange of any new or used item for another new or used item.

Sec. 19-2. Repealed.

Sec. 19-3. License required.

A. It is unlawful for any person to operate a mercantile business within the corporate limits of the City without possessing a valid license as provided in this Chapter.

B. It is unlawful for any person to operate a business that has been licensed pursuant to this Chapter while the license for that business is suspended, revoked or expired.

C. It is unlawful for any person to operate a mercantile business at a location for which the person has not obtained a license pursuant to this Chapter.

D. It is unlawful to operate any mercantile business under a business name that is not specified in the license issued pursuant to this Chapter.

Sec. 19-3.01. Exemptions from licensing requirements.

A. The requirements of Articles I, IV and V of this Chapter shall not apply to the following:

1. Any organization that is exempt from federal income tax under Section 501 of the Internal Revenue Code or is exempt from taxation of income under Arizona Revised Statutes Section 43-1201, as amended, to the extent of its nontaxable activities.

2. Any person who deals exclusively in secondhand books, magazines, handbills or posters.

3. Any person who deals exclusively in gold or silver bullion coins, and/or gold, silver, platinum, rhodium or palladium bullion that has been assayed and is properly marked as to its weight and fineness.

4. Any pawnbroker who is engaged in a pawn transaction.

5. Any person who deals exclusively in titled vehicles or titled property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in an appropriate government office.

6. Trade-ins of property the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in an appropriate government office.

7. The federal government, this state, and any political subdivision of this state.

8. The operator of any self-service storage facility foreclosing its lien pursuant to Section 33-1704, Arizona Revised Statutes, as amended. For purposes of this Section, the terms *operator* and *self-service storage facility* shall have the meanings prescribed in Section 33-1701, Arizona Revised Statutes, as amended.

B. A person who lawfully operates a mercantile business pursuant to this Chapter and who possesses a valid license for such business is not required to obtain a separate license under this Chapter to be a swap meet participant at a swap meet lot as defined in Section 10-33, provided that the swap meet participant prominently displays a clearly-legible facsimile of its mercantile business license at the swap meet.

C. A person who provides the services of an auctioneer while employed at an auction house licensed pursuant to this Chapter and in the conduct of business of the auction house is not required to possess an auctioneer's license.

Sec. 19-4. Display of license; duration and renewal; late renewal; proration of fee.

A. All licenses issued under the provisions of this Chapter shall be displayed upon the business premises in a conspicuous place that is clearly visible to the general public upon entry.

B. All licenses shall be issued for a period of one year and shall run from January 1 in each calendar year through December 31 next following.

C. A license may be renewed by paying the renewal fee no later than the last city business day in the month of expiration.

D. The annual renewal of a license shall have no effect on any suspension or revocation proceedings brought pursuant to this Chapter.

E. An expired license may be renewed by paying the license renewal fee no later than the last city business day in the following month of January, subject to payment of a penalty of ten percent of the license renewal fee. Any penalty assessed pursuant to this Subsection shall be paid within thirty days after receipt of the assessment.

F. All licenses issued pursuant to this Chapter during a licensing year shall have the license fee prorated to the nearest month.

Sec. 19-5. Schedule of fees.

A. The following fees shall be charged for applications and licenses in classifications as herein provided:

License Type	Application Fee	License Fee
Auctioneer	$70.00	$30.00 annually
Auction house	$135.00	$30.00 annually
Scrap metal dealer	$180.00	$130.00 annually
Secondhand dealer	$130.00	$30.00 annually

B. The City Clerk shall reduce the applicable application fee to the amount stated in the chart for each license application filed on the same day for which a background check is not required.

License Type	Reduced Application Fee
Auction house	$75.00
Scrap metal dealer	$120.00
Secondhand dealer	$70.00

C. The application fees are nonrefundable.

Sec. 19-6. Applications.

A. In the form prescribed by the City Clerk each applicant, controlling person and designated agent for a mercantile business license shall submit the following information to the City Clerk, as applicable:

1. The date of the application, full legal name, and all other names by which known.

2. Current residence address and telephone number.

3. Legal form of applicant, the business name or names under which the prospective licensee will be doing business, and the address at which the applicant intends to do business.

4. Physical description, place and date of birth, and written proof of age in the form of a current driver license with picture, or other current picture identification document issued by a governmental entity.

5. Information as to whether the applicant, designated agent or controlling person has ever had any business license or permit in this or any other city or state refused, denied, revoked or suspended, and the reason therefor.

6. Information as to whether the applicant, designated agent or controlling person has ever entered into a consent agreement with the City Clerk pursuant to this Article.

7. All prior criminal convictions.

8. One complete set of fingerprints.

9. If the applicant is a corporation, partnership, limited liability company, or other fictitious entity the name of the entity shall be set forth exactly as shown in its organizing document, together with the state and date of formation. The fictitious entity applicant shall designate one of its officers, members or general partners to complete and sign all application forms required of an applicant under this Article.

10. The organizing document, and all applicable amendments, for all applicants that are fictitious entities.

11. The applicant's mailing address for purposes of receiving city notices and other licensing correspondence relating to the applicant or the enforcement of this Chapter.

12. The type of merchandise to be purchased or sold.

B. The City Clerk shall have a reasonable period of time in which to investigate the application and background of those submitting an application pursuant to this Section and to process those applications through other City departments as necessary.

C. The City Clerk shall deny the license or application upon finding to be true any of the following circumstances:

1. The required fees have not been paid.

2. The application does not conform in all respects to the provisions of this Chapter

3. The applicant, designated agent or a controlling person has made a material misrepresentation of fact in the application or committed an act of deception in the application process.

4. The applicant, designated agent, any controlling person, or any of the general partners if a partnership has been convicted of, pleaded nolo contendere to, or guilty to, any felony described in Paragraph 3 of Subsection 19-9(A), or to a misdemeanor involving moral turpitude, within five years prior to the issuance of the license.

5. The applicant, designated agent or a controlling person was recorded on a license that was revoked pursuant to this Chapter within the five-year period immediately preceding the date of the filing of the application. For purposes of this Paragraph, the date of revocation shall be the date of final administrative or judicial decision, as applicable.

6. The applicant, designated agent or a controlling person has had a license that was issued by another jurisdiction, similar to the one issued pursuant to the provisions of this Chapter, suspended or revoked within the five-year period immediately preceding the date of the filing of the application.

7. The applicant, designated agent or a controlling person has violated a consent agreement entered into with the City Clerk pursuant to this Chapter within the previous five years.

8. The applicant, designated agent or a controlling person is not in compliance with all laws of the City, County and State, including the Zoning Ordinance, applicable to the operation of the activity to be licensed.

9. The applicant, designated agent or a controlling person is under eighteen years of age.

10. The applicant has failed to meet with the Phoenix Police Department at the date, time and location prescribed by the Police Department, as follows:

a. To receive training relating to the law applicable to the applied-for mercantile business license.

b. The applicant fully participates in the training without doing anything to create or permit an interruption.

c. The training lasts no longer than one-half hour, unless otherwise agreed to by the applicant.

D. The City Clerk shall grant the application unless the City Clerk finds to be true one or more of the circumstances specified in Subsection C. In the event of denial, the applicant shall be notified by certified mail of the denial and the reasons therefor. The applicant may appeal such denial to the License Appeal Board pursuant to the provisions of Article II of this Chapter.

Sec. 19-6.01. Applications; additional requirements.

A No license shall be issued to an individual if the individual does not present any of the following documents to the City Clerk indicating that the individual's presence in the United States is authorized under Federal Law:

1. An Arizona driver license issued after 1996 or an Arizona nonoperating identification license.

2. A driver license issued by a state that verifies lawful presence in the United States.

3. A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.

4. A United States certificate of birth abroad.

5. A United States passport.

6. A foreign passport with a United States Visa.

7. An I-94 Form with a photograph.

8. A United States citizenship and immigration services employment authorization document or refugee travel document.

9. A United States certificate of naturalization.

10. A United States certificate of citizenship.

11. A tribal certificate of Indian blood

12. A tribal or Bureau of Indian Affairs Affidavit of Birth.

B. This Section does not apply to an individual, if all of the following apply:

1. The individual is a citizen of a foreign country or, if at the time of application, the individual resides in a foreign country.

2. The benefits that are related to the license do not require the individual to be present in the United States in order to receive those benefits.

Sec. 19-7. Repealed.

Sec. 19-8. Repealed.

Sec. 19-8.01. Applications; criminal history record information review.

The City Clerk may receive and review the criminal history record information, including conviction and non-conviction data, of license applicants for the purpose of evaluating the fitness of licensees, controlling persons and designated agents in connection with the issuance, renewal, suspension or revocation of a license or the addition or change of a controlling person or designated agent. Such information shall be used only for the purpose of such evaluation or for the purpose of supporting and defending a denial, non-renewal, suspension or revocation in any administrative or judicial review of the City Clerk's action. The City Clerk shall submit a full set of the applicant's fingerprints to the Arizona Department of Public Safety for the purpose of obtaining a state and federal criminal records check pursuant to Section 41-1750, Arizona Revised Statutes, and Public Law 92-544. The Arizona Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigations.

Sec. 19-8.02. Change of location.

A. A license may be transferred from one location within the City of Phoenix to another location within the City of Phoenix.

B. In the form prescribed by the City Clerk, the licensee shall submit such information as the City Clerk shall require in order to process a request for change of location.

C. The City Clerk shall process the change of location application through such departments as necessary to ensure compliance with all laws of the City, County, and State.

D. A nonrefundable fee of ninety-five dollars shall be submitted with each application for a change of location.

E. The license transfer application shall be granted unless the application fee was not paid, there was fraud, misstatement or deception in connection with the application process, or the application is not in compliance with all laws of the City, County And State, in which case an order of denial shall be entered by the City Clerk and served upon the licensee by certified mail or hand-delivery. The order of denial shall specify the reasons for the denial.

Sec. 19-8.03. Change of controlling person or designated agent.

A. No change may be made to a controlling person of the licensee until the new controlling person has successfully completed the application process of 19-6, provided that the requirement to meet with the Police Department shall not apply.

B. No change may be made to a designated agent of the licensee until the new designated agent has successfully completed the application process of 19-6, provided that the requirement to meet with the Police Department shall not apply.

Sec. 19-8.04. Change of information.

Any change in the following information shall be reported to the City Clerk within ten calendar days of the change in the form prescribed by the City Clerk for that purpose:

1. Full legal name of licensee, designated agent, or any controlling person.

2. Legal form of licensee.

3. Business name of licensee.

4. Business address of licensee.

5. Licensee's mailing address for purposes of receiving city notices and other licensing correspondence.

Sec. 19-9. Revocation of license.

A. The City Clerk shall revoke a license issued pursuant to this Chapter if the City Clerk determines that:

1. A licensee, or any other person who submitted an application pursuant to Subsection 19-6(A), gave false or misleading information in the application or in connection with the application process.

2. A licensee, controlling person, designated agent or manager has knowingly operated the business during a period of time when the license was suspended.

3. A licensee, controlling person, or designated agent is convicted of a felony involving trafficking in stolen property, fraud, forgery, theft, burglary, robbery, extortion, conspiracy to defraud, any preparatory offenses of the aforementioned crimes, a felony involving a fraudulent or dishonest act, or a misdemeanor involving moral turpitude.

4. A manager of the licensee is convicted of a felony involving trafficking in stolen property, fraud, forgery, theft, burglary, robbery, extortion, conspiracy to defraud, any preparatory offenses of the aforementioned crimes, a felony involving a fraudulent or dishonest act, or a misdemeanor involving moral turpitude, provided that the underlying criminal conduct occurred while the manager was employed by the licensee and acting on behalf of the licensee on the licensed premises.

5. A licensee, controlling person, designated agent or manager has violated any of the terms of a consent agreement entered into pursuant to Section 19-10.1.

6. The licensee, controlling person, or designated agent has operated, or has attempted to operate, a mercantile business licensed pursuant to this Chapter at a location that has not been approved by the City Clerk.

7. A manager of the licensee has operated or attempted to operate a mercantile business licensed pursuant to this Chapter on behalf of the licensee at a location that has not been approved by the City Clerk.

8. The City Clerk has previously issued three or more notices of suspension for substantially the same offense within a twenty-four month period and another violation of that class has occurred.

9. A controlling person of the licensee has not successfully completed the application process prescribed by this Chapter.

10. The licensee has refused to comply with this Chapter.

11. The application fee or license fee has not been paid.

B. The fact that a criminal conviction is being appealed shall have no effect on the revocation of the license.

Sec. 19-10. Suspension of license.

The City Clerk shall suspend a license for a period of time not to exceed fourteen days if the City Clerk determines that the licensee, or a manager, controlling person or designated agent of the licensee, has violated or is not in

compliance with any provision of this Code applicable to the licensed business or licensed activity.

Sec. 19-10.1. Consent agreements.

A. The City Clerk, either before or after the issuance of a notice of suspension or revocation, may provide for informal disposition of any contested matter by consent agreement.

B. The consent agreement may impose requirements on the licensee that go beyond the requirements of this Chapter.

C. A notice of revocation issued pursuant to this Section may be appealed by way of special action or other available remedy to the Superior Court.

D. A violation of a consent agreement shall be considered a violation of this Chapter.

Sec. 19-10.2. Penalties and enforcement; civil sanctions.

A. A person who violates any provision of this Chapter is guilty of a Class 1 Misdemeanor.

B. Any licensee who violates any provision of this Chapter is subject to a civil sanction of not less than twenty-five dollars per violation nor more than two hundred fifty dollars per violation, provided that no person shall be charged pursuant to this Subsection and Subsection A for the same offense.

C. The provisions of Sections 19-9 and 19-10 of this Chapter are remedial and are cumulative with the civil and criminal penalties of this Section.

Sec. 19-10.3. Jurisdiction of court.

A. Jurisdiction of all proceedings to enforce the provisions of Section 19-10.2 of this Chapter shall be in the Municipal Court of the City of Phoenix.

B. Civil actions to enforce Section 19-10.2 of this Chapter may be adjudicated by a judge or a court hearing officer.

Sec. 19-10.4. Commencement of a civil action.

Any civil action to enforce a civil sanction imposed pursuant to this Chapter shall be commenced and summons shall be issued in accordance with the procedures set forth in the Arizona Revised Statutes.

Sec. 19-10.5. Admission or denial of allegation in a civil complaint; hearing; findings of court; civil sanction.

A. A person served with a civil complaint shall appear at the time and place stated in the summons, or may appear prior to that time, and upon the directions contained in the summons, and admit or deny the allegations of the complaint. Allegations not denied at the time of appearance are deemed admitted.

B. If the allegations are admitted, the court shall enter judgment for the City and impose a civil sanction.

C. If the person denies the allegations of the complaint, the court shall set the matter for hearing. Civil hearings are informal and held without a jury, and the City is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel, the person shall so notify the court at least ten days prior to the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the complaint. If the court finds in favor of the City, the court shall enter judgment for the City and impose a civil sanction.

D. If the person served with a civil complaint fails to appear on or before the time directed to appear or at the time set for hearing by the court, the allegations in the complaint shall be deemed admitted and the court shall enter judgment for the City and impose a civil sanction.

Sec. 19-10.6. Appeal of court decision.

Any party may appeal the judgment of the court to the Superior Court. Appeals from civil proceedings shall be in accordance with the Superior Court Rules of Appellate Procedure--Civil.

Sec. 19-11. Repealed.

ARTICLE II. LICENSE APPEAL BOARD*

Sec. 19-12. Creation; membership; terms; duties.

A. A License Appeal Board is hereby created. The Board shall consist of seven members to be appointed by the City Council for terms of four years. Any vacancy shall be filled by the City Council for the unexpired term.

B. The Board shall select its own chairman, adopt its own procedural rules and shall keep a record of its proceedings and transactions.

C. The majority of the members of the Board shall constitute a quorum, and the Board shall hear, review and decide all appeals properly brought before it under the provisions of this Code.

D. The decisions of the Board shall be based upon the requirements and regulations as stated in this Chapter, Articles I, II and III of Chapter 7, Articles I, III, IV, V, VI and VII of Chapter 10; Division 2, Article III of Chapter 2, and Article II of Chapter 31 of this Code.

Sec. 19-13. Appeals procedure.

A. When the designated or authorized City official, as listed in this Chapter; Articles I, II and III of Chapter 7; Articles I, III, IV, V, VI and VII of Chapter 10; Division 2, Article III of Chapter 2; and Article II of Chapter 31 of this Code, shall issue an order of denial, nonrenewal, suspension or revocation by sending notice thereof to the applicant or licensee by Certified mail or by hand delivery, the applicant or licensee may appeal said notice of denial, nonrenewal, revocation or suspension to the License Appeal Board within ten days of receipt of said notice.

B. The notice of appeal shall be in writing and shall be addressed to the License Appeal Board, in care of the City Clerk, Phoenix City Hall, 200 W. Washington Street, 15th Floor, Phoenix, Arizona 85003.

C. Time for appeal shall be computed under the Federal Rules of Civil Procedure, Rule 6(a). The tenth day shall end at 5:00 p.m. MST. Any letters or requests for appeal submitted after said time or not in conformity with these provisions shall not be heard.

Sec. 19-14. Hearing by Board.

A. The hearing process shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision of the Board shall in all cases be based upon substantial and reliable evidence. All parties shall have the right to be represented by counsel and to present evidence and testimony in support of their position.

B. The Board in its sound discretion may uphold the notice of revocation or reduce said notice of revocation to a suspension of license not exceeding sixty days. The Board may also reduce a notice of suspension in the number of days said license is to be suspended.

C. The decision of the Board shall be final.

D. When the decision to suspend a license or revoke a license becomes final, the licensee against whom this action has been taken shall have the right to seek judicial review of the decision by way of special action or other available remedy in the Superior Court.

Sec. 19-15. Notice of denial, nonrenewal, revocation or suspension--When final.

The notice of denial, nonrenewal, revocation or suspension by the designated City official, once served upon the applicant or licensee, shall become final only after:

(a) The ten days expire within which to appeal said notice; or

(b) A decision of the Board following the hearing, upholding the designated City official's notice of denial, nonrenewal, suspension or revocation is issued.

Sec. 19-16. Penalty.

Any person violating the rule of the Board under the terms of this Article shall be guilty of a misdemeanor.

Secs. 19-17--19-19. Reserved.

ARTICLE III. DISPOSITION OF ALLEGEDLY STOLEN PROPERTY*

Sec. 19-20. Scope.

A. Property that is in the possession of the Police Department and that has all of the characteristics set forth in Section 19-21 of this Code shall be disposed of pursuant to this Article.

B. Property that is in the possession of a business regulated by Chapter 19 of this Code and that has characteristics B through E of Section 19-21 of this Code may be disposed of pursuant to this Article.

Sec. 19-21. Property included.

A. The property has come into the possession of the Police Department by means of seizure by the Department or some other law enforcement agency.

B. The City has reason to believe that the property was stolen or otherwise taken from a lawful possessor through criminal conduct.

C. No Arizona court has before it a petition against a suspect alleged to have stolen the property.

D. Two or more persons are known or believed to have made, or can reasonably be anticipated to make, a claim for possession of the property.

E. The City of Phoenix makes no claim to possession of the property.

F. The property will not be required to be retained for use as evidence in any legal proceeding other than the hearing under this Article.

Sec. 19-22. Initiation of petition.

The Police Department shall file a petition with the hearing officer that shall set forth the following:

A. The facts establishing compliance with the basis for the action under Section 19-21.

B. The name and address of each person described in Section 19-21(D).

C. An accurate description of the property, any identifying marks or serial numbers, the police identification number(s), the location where seized, and the person from whom seized.

Sec. 19-23. Service of the petition; notice of hearing.

A. The petition shall be served either personally, by first class mail, postage prepaid, return receipt requested, or through any other reasonable means that effects actual service, upon all persons known to have an interest in the property, each person described and named in Section 19-21(D) and, in all cases, upon the person from whom the property was seized.

B. A copy of this Article shall be served with each petition.

C. There shall be served with the petition and copy of this Article a notice of hearing setting forth the hearing date, time and place. The hearing date shall be set no less than twenty-five nor more than sixty calendar days after the date of service of the petition and notice, subject to Section 19-26 or agreement of respondents.

D. Service by mail shall be made to the last known address of all persons included in Subsection A of this Section.

E. Service shall be complete upon receipt.

F. Proof of service upon each potential claimant shall be delivered to the hearing officer.

Sec. 19-24. Claimant's rights.

A. Any person claiming an interest in the property shall be known as a respondent. The person from whom the property was seized shall be considered a respondent unless that person signs a waiver relinquishing all interest in the property.

B. A respondent or any other person claiming any ownership interest of any kind, or possessory right to the property, shall have the right to appear at the hearing and to present any and all evidence in support of such person's claim to the property.

C. Except as provided in Section 19-25(B) of this Article, the failure of any person to appear at such hearing shall constitute a waiver of any claim to the property by such person as against the City of Phoenix, and shall authorize the hearing officer to enter a ruling consistent therewith.

Sec. 19-25. Conduct of hearing.

A. The hearing shall be conducted informally and the technical rules of evidence shall not apply, provided that the decision of the hearing officer shall in all cases be based upon substantial and reliable evidence. All parties shall have the right to be represented by counsel, to present evidence and testimony in support of their position, and to cross examine adverse witnesses. All witnesses shall be placed under oath before testifying. The hearing officer may permit a respondent to appear at the hearing telephonically upon good cause shown.

B. The burden of proof shall be at all times upon the person or persons challenging the possession of the regulated business, or the party from whom the property was taken by the Police Department, even if the regulated business or the party from whom the property was taken does not appear at the hearing.

C. The hearing shall be recorded electronically or by other means.

D. The decision of the hearing officer shall be issued within ten calendar days after the close of the record. The decision shall be in writing, and shall be hand-delivered or mailed postage prepaid to each respondent or claimant appearing.

E. The decision of the hearing officer shall be final upon issuance.

Sec. 19-26. Hearing continuance.

The hearing officer may grant a request to continue the hearing on good cause shown.

Sec. 19-27. Judicial review.

Any respondent or other party participating in the hearing who is aggrieved by the decision of the hearing officer may seek judicial review by way of special action or other available remedy in Superior Court.

Sec. 19-28. Hearing officer.

All petitions filed pursuant to this Article shall be assigned to and considered by a hearing officer designated by the City Manager. Such hearing officer or designee shall in no event be an employee of the Police Department.

Sec. 19-29. Release of seized property.

A. Any person prevailing in a hearing or uncontested proceeding convened pursuant to Section 19-21(A) of this Article shall be entitled to receive the property described in the petition after producing a copy of the decision in their favor and appropriate identification to the property's custodian.

B. No property may be released pursuant to this Section until the expiration of twenty calendar days from the date of the hearing officer's decision.

Sec. 19-30. Release of unseized adjudicated property.

A. Any peace officer of the Phoenix Police Department may seize the property from the regulated business or other person in possession of the property upon the hearing officer's order that a respondent or claimant other than the regulated business or other person has the greater claim to possession of the property.

B. A receipt identifying the property, the peace officer involved in the seizure, and the date of the seizure shall be given to any regulated business or other person from whom property is seized pursuant to this Section.

C. The property, upon its seizure by the Police Department pursuant to this Section, will be given to the respondent or claimant prevailing at the hearing unless the property is required to be retained by the Police Department for use in any legal proceeding. At the expiration of any such legal proceeding the property shall then be given to the prevailing respondent or claimant.

D. No property seized by the Police Department pursuant to this Section may be given to the prevailing respondent or claimant until the expiration of twenty calendar days after the issuance of the hearing officer's decision.

E. The respondent or claimant prevailing at the hearing may be required to sign a receipt for any property returned to that person pursuant to this Section.

F. Notwithstanding any other provision of this Chapter, a regulated business may not dispose of any property-that has been made the subject of a decision by the hearing officer pursuant to this Article, except as ordered by a court, the hearing officer, or any peace officer.

Sec. 19-31. Limited effect of hearing officer decision.

Nothing in this Article shall prevent any person from filing an action in a court of appropriate jurisdiction to establish ownership of or right to possession to the property.

ARTICLE IV. AUCTION HOUSES AND SECONDHAND DEALERS.

Sec. 19-40. Report of transaction; transmittal; retention.

A. Every person engaged in the business of auction house or secondhand dealer shall make out at the time of the transaction a true, complete, and legible report of all goods or articles, received on deposit or consignment, trade or exchange, or by purchase, that bear a serial number or have a fair market value in excess of one hundred dollars. The report shall be made upon forms furnished or approved by the Police Department, and shall be delivered to the Police Department, in the form prescribed by the Police Department, within twenty-four hours after receipt of the property concerned. Delivery of the report to the Police Department is accomplished when the report is delivered in person or when the report is deposited in the United States mail. The reporting party shall retain a copy of each report on the premises of the business for six months from the date of the transaction. Each report shall contain for each item received:

1. An accurate description of the property, including brand name and serial number, if any. The word "scrap" shall not constitute a description under this Section.

2. The amount paid for the property, or amount allowed in trade.

3. The date and time when the property was received.

4. A statement in ten-point bold type, signed by the person from whom the property was received, that reads as follows: All information in this report is complete and accurate. I am the owner of goods described in this report that I sold or consigned or I am authorized to enter into this sale or consignment transaction on behalf of the owner of the goods described in this report. I understand that I will be guilty of a Class 1 Misdemeanor if the information in this report is not complete and accurate, if I am not the owner of the goods sold or consigned or if I am not authorized to enter into the sale or consignment transaction on behalf of the owner of the goods.

5. The name (printed), address and age of such person. Before accepting the property, the reporting party shall require the person who is delivering the property to identify himself with a valid motor vehicle operator's license, valid motor vehicle non-operating identification license, valid armed forces identification card or other government-issued valid photo identification sufficient to verify the information required by this Paragraph.

6. The serial number and type of the identification card provided pursuant to Paragraph 5, above.

7. A description of such person, consisting of height, weight, race, complexion and hair color.

B. An auction house or secondhand dealer shall not purchase goods in a series of purchases for purposes of avoiding the requirements of this Section.

Sec. 19-41. Property holding period; condition; off-site storage.

A. An auction house or secondhand dealer shall retain any property obtained in a reportable transaction at its place of business, or other storage location approved by the Police Department, for a period of ten calendar days after completing and submitting to the Police Department the report required by Section 19-40. Any article held in custody pursuant to this Section shall not be altered or transformed in any way but shall be held in the same condition in which it was delivered to the reporting party. Any items received as a set shall be reported and retained as a set throughout the retention period.

B. An auction house or secondhand dealer licensed pursuant to this Chapter may apply to the Police Department for approval to store merchandise at a location other than its place of business by filing the application prescribed by the Police Department for that purpose. The application shall be approved if the Police Department believes, in the exercise of its discretion, that the alternative storage location will not in any way impair the administration or enforcement of this Chapter.

C. The application shall contain the following information:

1. The name of the business.

2. The license number of the business.

3. The street address of the requested off-site storage location.

4. A description of the property to be stored at the off-site storage location.

5. Such other information as the Police Department may reasonably require in order to process the application.

D. An approval issued pursuant to this Section may be revoked by the Police Department at any time for good cause by hand-delivering or mailing by certified mail a notice of revocation to the licensee specifying the storage location that is no longer approved for off-site storage by the Police Department and the reason for the revocation. Service by certified mail shall be complete five calendar days after mailing.

E. Notwithstanding any contrary provision of this Chapter, there is no administrative appeal from a decision to revoke a storage location approved pursuant to this Section.

F. A revocation pursuant to this Section shall be effective on the eleventh calendar day after service.

G. No approval of an alternative storage location by the Police Department pursuant to this Section shall either relieve the licensee of the obligation to comply with all other applicable law or permit the storage of any items in violation of the law.

Sec. 19-42. Reporting and holding period exemptions.

A. Sections 19-40 and 19-41 of this Article shall not apply to transactions falling within any one or more of the following categories:

1. Purchases by a secondhand dealer or auction house, or consignments to an auction house, of either business inventory or business equipment from a business with a fixed business location, provided that the licensee acquires at, or has previously acquired by, the time of the transaction, all of the following:

a. The name and address of the business.

b. The state and local privilege (sales) tax license number of the business, if applicable.

c. Regardless of the amount of the transaction, either a copy of the invoice or other document showing the business' bona fide purchase of or right to possess the article sold, or a transaction report that is completed in all its particulars as specified in Section 19-40 and that is signed by a representative of the business with actual or apparent authority to act on behalf of the business for purposes of this Paragraph.

2. Purchases of household items by a secondhand dealer or auction house from a place of residence, provided that all of the following apply:

a. The purchase is made by the licensee by check or other negotiable instrument made payable to the seller, or the purchase is made in cash and the licensee has obtained a receipt for that cash payment from the seller bearing the seller's name and address, verified to be accurate by the licensee from identification of the type listed in Paragraph (A)(5) of Section 19-40.

b. The seller has produced for the licensee's inspection documentary evidence that would establish to the satisfaction of a reasonable person that the seller is either the lawful occupant of the premises or has the legal right to sell the items being offered for sale. The licensee shall record from the documentary evidence produced a description of the document, including the name or nature of the document, and, to the extent available, its date, the individual's name and address thereon, and any account number appearing thereon.

3. Consignments, other than a firearm consigned to an auction house or secondhand dealer, provided that no payment is made by the licensee to the consignor for a period of three calendar days after the date of the consignment.

4. Consignments of household items to an auction house if all consigned items are located at a residence and are auctioned at that residence.

5. Any firearm consigned to a licensee by a pawnbroker, secondhand dealer, or auction house licensed by the State of Arizona or any City within the state of Arizona.

6. Articles of used clothing received in trade, exchange, by purchase, or on consignment.

7. Articles of furniture received in trade, exchange, by purchase, or on consignment. For the purposes of this Paragraph, the word “furniture” does not include pianos or other musical instruments.

8. Goods or articles received in trade, exchange, or by purchase from a business engaged in the lawful liquidation of its business.

9. Goods or articles received in trade, exchange, by purchase, or on consignment from a secondhand dealer or auction house possessing a valid license issued pursuant to this Article, or a pawnbroker possessing a valid license issued pursuant to A.R.S. § 44-1627, as amended.

10. Used appliances.

11. Gold and silver bullion coins.

12. Gold, silver, platinum, rhodium or palladium bullion that has been assayed and is properly marked as to its weight and fineness.

13. Coins.

14. Commemorative medallions.

15. Collectible cards.

16. Used tires.

17. Titled vehicles or titled property, the transfer of title to which is required by the laws of the state to be evidenced by written instrument and recorded in an appropriate government office.

18. Donated items purchased or received from an organization described at Section 19-3.01(A)(1) if the receiving party obtains a written statement from the seller or donor at the time of the transaction that contains:

a. The name of the Section 19-3.01(A)(1) organization.

b. The name of the receiving party.

c. The date.

d. A general description of the goods transferred.

e. A verification that all items transferred were donated to the Section 19-3.01(a)(1) organization.

f. The printed name and signature of an authorized representative.

19. Audio records and cassettes.

20. Compact discs.

21. Digital video discs.

22. Video game software discs, cartridges and cassettes.

B. All documentation obtained pursuant to this Section shall be retained on the business premises for a period of two years and shall be made available for reasonable inspection by any peace officer of this state during regular business hours.

Sec. 19-43. Repealed.

Sec. 19-44. Copy of Code; provision upon request.

Each auction house and secondhand dealer shall maintain a copy of this Chapter on the licensed premises at all times and shall make it available upon request to any employee, customer or peace officer of this state.

Sec. 19-45. Abandoned property.

Every person engaged in the business of auction house or secondhand dealer who, in the conduct of his business, comes into possession of abandoned property, shall turn over such property to the Police Department. If ownership of such property is not established within ninety days after delivery to the Police Department, the property shall be returned to the person from whom the Police Department obtained possession.

Sec. 19-46. Premises open to inspection.

The business premises of any auction house or secondhand dealer, along with their transaction records and stock of goods and articles, shall be open to reasonable inspection by any peace officer of this state during regular business hours.

Sec. 19-47. Strict liability.

Unless the provision contains a mental state, any person violating any of the provisions of this Article shall be strictly liable. No culpable mental state is required.

Sec. 19-48. License suspension; limitation.

Notwithstanding any other provision of this Chapter, the license of any auction house or secondhand dealer may be suspended for a period not to exceed one year upon a showing that the operator or any employee in the conduct of business of such establishment has been convicted of violating any of the provisions of this Chapter, or A.R.S. §§ 13-1802 and 13-2307. The conviction of an employee under A.R.S. § 13-1802 for an act of theft committed against that employee's own auction house or secondhand dealer shall not be the basis for suspension under this Section.

Sec. 19-49. License suspension; employment restriction.

No person engaged in the business of auction house or secondhand dealer shall knowingly permit a person whose license is under suspension pursuant to this Chapter to be employed in any capacity of such establishment.

Sec. 19-50. Repealed.

Sec. 19-51. Transaction fee.

An auction house or secondhand dealer shall pay to the City of Phoenix a fee in the amount of three dollars and fifty cents for each report required to be prepared pursuant to Section 19-40 of this Article. The fee shall be due on the last business day of the month following the month in which the reports are required to be completed pursuant to this Article. The fees payable and paid shall be recorded on a form prescribed by the City and shall be considered as filed only when the accuracy of the return has been attested to, by signature upon the form, by the auction house or secondhand dealer, or its authorized agent, and has been received by the City.

Article V. SCRAP METAL DEALERS.

Sec. 19-60. Report of transaction; transmittal; retention.

Every scrap metal dealer shall keep on the business premises a book or other similar record legibly printed or written in ink in the English language of each transaction exceeding twenty-five dollars involving the receipt of scrap metal except used aluminum beverage containers and materials consisting of a metal product in its original manufactured form that is comprised of no more than twenty percent by weight nonferrous metal. The record of each receipt of scrap metal shall include the following information:

1. A photograph and an identifying description and weight of the specific scrap metal received.

2. The date, time, and place of the transaction.

3. The seller's name, physical address, physical description including gender, height, weight, race, eye and hair color, date of birth, signature and a photocopy of a current driver license, nonoperating identification card issued pursuant to Section 28-3165, Arizona Revised Statutes, or a photo identification card issued by a Tribal Government or the United States Military. The scrap metal dealer must validate the recorded information by using the seller's current driver license, nonoperating identification license issued pursuant to Section 28-3165, Arizona Revised Statutes, or photo identification card issued by a Tribal Government or the United States Military.

4. The dollar amount of the transaction.

5. The number and state of issuance of the license on the vehicle used to deliver the scrap metal.

6. The seller's state transaction privilege tax number, if applicable.

7. A photograph, video record or digital record of the seller involved in the transaction.

8. A right index fingerprint of the seller.

Sec. 19-61. Property holding period; condition.

The record and entries required by Section 19-60 of this Article shall be retained in a book or similar record at the business premises for one year after making the final entry of any transaction and shall be retained either at the business premises or any other reasonably available location for an additional year.

Sec. 19-62. Series of purchases; limitation.

A scrap metal dealer shall not purchase materials for which a record is required to be kept by Section 19-60 of this Article in a series of purchases under twenty-five dollars in order to avoid the requirements of that Section.

Sec. 19-63. Reporting requirement.

Within twenty-four hours of receipt of scrap metals, except from an industrial account or a scrap metal dealer, for which a record is required to be kept by Section 19-60 of this Article, a scrap metal dealer shall electronically submit to the Department of Public Safety a record of the receipt of the scrap metals. The record shall include the following information:

1. The date, time and place of the receipt of the scrap metal.

2. An identifying description of the specific scrap metal received including the weight and amount of the transaction or other consideration given.

3. A description of the person delivering the metal to the scrap metal dealer including the person's gender, height, weight, race and hair and eye color, address and date of birth and a photocopy of a current driver license, nonoperating identification license issued pursuant to Section 28-3165, Arizona Revised Statutes, or photo identification card issued by a tribal government or the United States military.

4. The number and state of issuance of the license on the vehicle used to deliver the scrap metal.

Sec. 19-64. Property holding period; condition.

For copper, aluminum wire with a diameter of at least three-eighths of an inch and transactions with a value over one hundred dollars, a scrap metal dealer shall hold in its custody in the same size, shape and condition in which the scrap metal was received on its business premises any scrap metal received in a reportable transaction for seven days after filing the report prescribed by Section 19-63 of this Article. This Section does not apply to transactions with industrial accounts, other scrap metal dealers or purchases by scrap metal dealers of used aluminum beverage

containers or ferrous scrap metals and of scrap metal authorized for release by a peace officer of that jurisdiction. A scrap metal dealer shall not purchase materials that are subject to the hold rule of this Section in a series of transactions with a value of one hundred dollars or less in order to avoid the requirements of this Section.

Sec. 19-65. Payment by check or money order.

A. A scrap metal dealer shall not provide payment for any scrap metal on site at the time of the scrap metal transaction. Payment shall be made by mailing a check or money order to a physical address provided by the seller through a current driver license or other identification prescribed in Paragraph 3 of Section 19-60 of this Article. The check or money order shall be made payable to the business name for an industrial account. This Section:

1. Except as provided in Paragraphs 2 and 3 of this Section, only applies to industrial accounts, copper and aluminum wire with a diameter of at least three-eighths of an inch.

2. Except as provided in Paragraph 3 of this Section, applies to all scrap metal transactions of three hundred dollars or more.

3. Does not apply to industrial accounts if the industrial accounts annually preregister employees who are authorized sellers on behalf of the industrial accounts.

B. This Section does not apply to transactions involving used aluminum beverage containers or materials consisting of a metal product in its original manufactured form that is comprised of no more than twenty percent by weight nonferrous metal.

Sec. 19-66. Receipt required; exception.

A scrap metal dealer shall provide a receipt to the seller on site at the time of the scrap metal transaction for every transaction, except those involving used aluminum beverage containers or materials consisting of a metal product in its original manufactured form that is comprised of no more than twenty percent by weight nonferrous metal, and shall include the following information:

1. The date, time and place of the transaction.

2. An identifying description and weight of the specific scrap metal received.

3. The dollar amount of the transaction.

Sec. 19-67. Cash transaction limitation; exception.

A scrap metal seller shall not participate in more than one cash transaction per day for scrap metal, excluding used aluminum beverage containers and materials consisting of a metal product in its original manufactured form that is comprised of no more than twenty percent by weight nonferrous metal.

Sec. 19-68. Seller age limitation; exception.

A scrap metal seller shall be at least sixteen years old, excluding transactions for used aluminum beverage containers and materials consisting of a metal product in its original manufactured form that is comprised of no more than twenty percent by weight nonferrous metal.

Sec. 19-69. Purchase of burnt metallic wire; prohibition; exception.

A scrap metal dealer shall not purchase or otherwise receive metallic wire that was burned in whole or in part to remove insulation unless the scrap metal dealer receives from the scrap metal seller written evidence identifying the person who delivers the wire to the scrap metal dealer that includes evidence that the wire was lawfully burned.

Sec. 19-70. Aluminum and copper wire purchase limitations.

A scrap metal dealer shall not accept aluminum wire with a diameter of at least three-eighths of an inch or any copper wire that has had the insulation removed and shall not remove the insulation from the wire until after the seven day period prescribed by this Article.

Sec. 19-71. Industrial account and scrap metal dealer exceptions.

Sections 19-69 and 19-70 of this Article do not apply to transactions with industrial accounts or to transactions between scrap metal dealers.

Sec. 19-72. Prohibited scrap metal transactions; exceptions.

A. A scrap metal dealer shall not knowingly purchase the following types of scrap metal in its original manufactured form:

1. Metal manhole covers that are used to cover street or alley service personnel access entrances to municipal sewers and storm drains.

2. Brass and bronze valves or fittings that are commonly used on structures for access to water for the purpose of extinguishing fires.

3. Brass or bronze commercial potable water backflow preventer valves that are valves commonly used to prevent backflow of potable water into municipal domestic water service systems from commercial structures.

4. Water meters that are used for measurement of the use and consumption of domestic water.

5. Aluminum trench shoring that is commonly used for shoring below ground trenches and excavations for the construction of buildings and structures.

6. Aluminum loading ramps that are manufactured and used for loading motor vehicles or hauling the motor vehicles.

7. Aluminum or stainless steel beer or malt beverages kegs that are commonly used by brewers or producers for the sale and transportation of beer or malt beverages.

8. Catalytic converters. For the purposes of this Paragraph, “catalytic converters” means motor vehicle exhaust system parts that are used for controlling the exhaust emissions from motor vehicles and that contain a catalyst metal.

B. This Section does not apply to or prohibit the purchase or possession of the types of items listed in Subsection A and that are acquired in transactions with industrial accounts, with other scrap metal dealers or after the scrap metal is authorized for release by a peace officer of that jurisdiction.

Sec. 19-73. Mental state for civil enforcement action.

No culpable mental state need be shown in order to take civil enforcement action against a scrap metal dealer licensee as provided in City Code Sections 19-10 and 19-10.2, provided that any civil enforcement action taken as a result of the destruction of any record required to be kept pursuant to this Article shall require a showing that the action was taken knowingly.

Sec. 19-74. Copy of scrap metal dealer Article.

A scrap metal dealer shall maintain a copy of this Article on the premises at all times and shall make it available upon request to any employee or customer of that scrap metal dealer and to local law enforcement.

Sec. 19-75. Abandoned property.

A scrap metal dealer who, in the conduct of his business, comes into possession of abandoned property, shall turn over such property to the Police Department. If ownership of such property is not established within ninety days after delivery to the Police Department, the property shall be returned to the person from whom the Police Department obtained possession.

Sec. 19-76. Premises open for reasonable inspection.

A scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this Section, and business inventory shall be open during regular business hours for reasonable inspection by a peace officer. Before an inspection shall take place a peace officer shall first identify himself and the purpose for the inspection to the scrap metal dealer, dealer's manager or other responsible person and comply with all reasonable and customary safety requirements of that scrap metal dealer for the business premises inspected. The scrap metal dealer may require the peace officer to sign an inspection log that includes the officer's name and serial or badge number and the time, the date and the purpose for the inspection.

Sec. 19-77. Penalty for failing to keep, produce or retain required record; other violations; Class One Misdemeanor.

A scrap metal dealer who fails in any respect to keep a book or similar record prescribed by this Article or to set out in a book or similar record any matter this Article requires or who refuses, upon demand of any peace officer of this state, to exhibit a book or similar record, business record, receipt or transaction record, or who knowingly destroys a book or similar record within two years after making the final entry of any transaction or who otherwise fails to comply with this Article, is guilty of a Class 1 misdemeanor.

Sec. 19-78. License suspension.

A. Notwithstanding any other provisions of this Article, the license of any scrap metal dealer may be suspended for a period of time not to exceed one year upon a showing that the operator or any employee of such establishment has been convicted of violating any of the provisions of Chapter 19 of the Phoenix City Code, or any of the provisions of A.R.S. §§ 13-1802, 13-2307, 28-2094, 28-2531, 44-1642, 44-1643, 44-1644, or 44-1646 in the conduct of business of such establishment. The conviction of an employee under A.R.S. § 13-1802 for an act of theft committed against that employee's own scrap metal dealer shall not be the basis for suspension under this Subsection.

B. No person engaged in the business of scrap metal dealer shall knowingly permit a person whose scrap metal dealer license is under suspension to be employed in any capacity of such establishment.

Sec. 19-79. Non-profit organization.

The reporting requirements of Section 19-60 of this Article for any article received by a scrap metal dealer in trade, exchange, or by purchase, shall not apply to organizations qualified under Section 501(c), Internal Revenue Code of 1986.

ARTICLE VI. POLICE HOLDS.

Sec. 19-80. Police officer hold on property.

A. Whenever any peace officer has probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, scrap metal dealer, or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ninety days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice mailed to the-pawnbroker, secondhand dealer, scrap metal dealer, or auction house within two days, excluding weekends and City holidays. The written notice of hold shall accurately describe the property, providing the item's brand name, and serial number and owner-applied number, as applicable. During the hold period the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house shall tag and mark the item placed on hold with the following information: date and time of hold, name of law enforcement agency placing the hold, and law enforcement report number. A pawnbroker, secondhand dealer, scrap metal dealer, or auction house shall not be subject to civil liability for compliance with this Section.

B. Whenever property that is in the possession of a pawnbroker, secondhand dealer, scrap metal dealer, or auction house is subject to a hold and the property is required by a peace officer in a criminal investigation, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency or which the peace officer placing the hold on the property is a member.

C. Whenever property that is in the possession of a pawnbroker, secondhand dealer, scrap metal dealer, or auction house is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

1. With respect to the property being held, if the law enforcement agency no longer has probable cause to believe that the property on hold is stolen, the hold shall be released.

2. If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency may either utilize the provisions of Article III of this Chapter, if otherwise applicable, or give written notification to the person who reported the stolen property of the name and address of the pawnbroker, secondhand dealer, scrap metal dealer, or auction house holding the property, authorize the release of the property to that person, and advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property. A copy of the notice with the address of the claimant

deleted shall be mailed to the pawnbroker, secondhand dealer, scrap metal dealer, or auction house that is in possession of the property. The person who reported the stolen property shall present a police hold release to the pawnbroker, secondhand dealer, scrap metal dealer, or auction house prior to the person receiving the item. Notwithstanding the foregoing, if the alleged owner does not choose to participate in the prosecution of an identified alleged thief, the alleged owner shall pay the pawnbroker, secondhand dealer, scrap metal dealer, or auction house the "out of pocket" expenses paid in the acquisition of the allegedly stolen property in return for the surrender of the property. If no action is taken to recover the property by the person who reported the property stolen within sixty days after the date that the notice was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the pawnbroker, secondhand dealer, scrap metal dealer, or auction house that the property may be stolen property, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house in possession of the property may treat the property as regularly acquired in the due course of business.

3. If a pledger seeks to redeem property that is subject to a hold, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house shall advise the pledger of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.

D. Whenever any property is taken from a pawnbroker, secondhand dealer, scrap metal dealer, or auction house by a peace officer that is alleged to be stolen property, the police officer shall give the pawnbroker, secondhand dealer, scrap metal dealer, or auction house a receipt for the property that shall contain an accurate description of the property, including brand name, and serial number and owner-applied number, as applicable, the reason for seizure, and the names of the pawnbroker, secondhand dealer, scrap metal dealer, or auction house, and the officer.

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