

ORDINANCE NO. 2520

AN ORDINANCE OF THE CITY OF NORTH LAS VEGAS REPEALING ORDINANCE NUMBER 1286 AND REPEALING AND REPLACING CHAPTER 10 OF TITLE 5 OF THE NORTH LAS VEGAS MUNICIPAL CODE REGULATING AUTOMOBILE PAWNBROKERS AND ENACTING NEW REGULATIONS GOVERNING AUTOMOBILE PAWNBROKERS, INCLUDING THE ELIMINATION OF POPULATION-BASED LICENSE RESTRICTIONS, THE AMENDMENT OF REGULATIONS CONCERNING APPLICANT BACKGROUND INVESTIGATIONS, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, pursuant to NRS 268.095 and NRS 646.002 *et. seq.* the City of North Las Vegas is authorized to regulate and license all lawful trades, including, without limitation, pawnbrokers as that term is defined herein and by NRS 646.010; and

WHEREAS, the City of North Las Vegas has engaged in a comprehensive review of its current ordinances and regulations governing automobile pawnbrokers and has determined that such ordinances and regulations are in need of significant revision, restructuring and modernization;

Accordingly, the City Council of the City of North Las Vegas, Nevada does ordain:

SECTION 1: The Municipal Code of the City of North Las Vegas, Nevada is hereby amended by replacing Chapter 10 of Title 5 in its entirety with the following:

Chapter 5.10 Automobile Pawnbrokers

- 5.10.010 Purpose and intent.
- 5.10.020 Definitions.
- 5.10.030 License required.
- 5.10.040 Land use and location requirements – Conformance with Title 17.
- 5.10.050 Background investigation and finding of suitability.
- 5.10.060 Key employees.
- 5.10.070 License fees.
- 5.10.080 Employee work cards.
- 5.10.090 Limits of businesses licensed.
- 5.10.100 Change of location – Restrictions.
- 5.10.110 License transfer or assignment.
- 5.10.120 Non-operational status.
- 5.10.130 Retention of pawn – Right of redemption.
- 5.10.140 Record to be kept – Inspection.
- 5.10.150 Daily report to be made to police – Contents.
- 5.10.160 Manner of reporting.

- 5.10.170 Automobile pawns not to be taken from certain persons.
- 5.10.180 Minors not to receive pledges or make loans.
- 5.10.190 Liability of licensee.
- 5.10.200 Time for holding automobiles.
- 5.10.210 Information required on pawn ticket.
- 5.10.220 Safekeeping of pledges.
- 5.10.230 Interest rate – Handling charge.
- 5.10.240 Application of other ordinances.

5.10.010 Purpose and intent.

A. The city council declares that this chapter and the regulations contained herein are an exercise of the regulatory powers delegated to the council by the state pursuant to Chapter 268 and 646 of the Nevada Revised Statutes.

B. The public health, safety and welfare of the inhabitants of the city require the regulation and control of all persons engaged in the business of automobile pawnbrokering. All such persons as defined in this chapter shall be licensed and controlled as to protect the public health, safety, good order and general welfare of the inhabitants of the city and to safeguard the public.

C. The right to obtain such license is a privilege and the operation of an automobile pawnbroker business, when authorized by such a license, is a privileged business and a highly regulated industry. The license may be revoked, suspended or disciplined for violation of the conditions of this chapter, the laws of the State of Nevada, other ordinances of the city, or for any other cause deemed sufficient by the city council in the exercise of its sole discretion.

D. In conformity with the policy of this chapter, the city council may, in addition to the grounds provided in Chapter 2 of this Title, deny, suspend, or revoke an automobile pawnbroker license for the following reasons:

1. In the judgment of the city council the granting or continued use of such license may tend to create or constitute a public nuisance.
2. In the judgment of the city council there are ample and sufficient licensees and establishments in the area or place for which the license is to be used to properly serve such area or place.
3. In the judgment of the city council, the applicant or licensee is not a suitable person to receive or hold a license, after due consideration for the protection of the public health, safety, good order and general welfare of the inhabitants of the city.

5.10.020 Definitions.

As used in this chapter, unless the context otherwise requires, the following words shall have the meaning ascribed to them as follows:

"Automobile pawnbroker" means any person who:

1. Lends money on security of an individual's automobile; or
2. Deals in the purchase or possession of an individual's automobile on condition of selling the same back again to the person; or

3. Lends or advances money on an individual's automobile by taking a security interest therein, and takes or receives such automobile into his possession.

“Key employee” means any executive, manager, employee, agent, officer or director of a licensee or applicant having the power to exercise significant influence or control over decisions concerning any part of the operation of the business or a person charged with the day-to-day operations of the business.

"Pawnor" means a person who borrows money from another and deposits an automobile as security for the loan.

"Pawn or pledge" means the deposit of an automobile by a debtor (pawnor) to a creditor (automobile pawnbroker) as security for a loan.

5.10.030 License required.

A. It is unlawful for any person to conduct an automobile pawnbrokering business in the city without first obtaining and thereafter maintaining a valid, unexpired automobile pawnbroker's license pursuant to this code.

B. All automobiles that have been pawned by a pawnor, and have not been redeemed by the pawnor within the time period established pursuant to NRS 646.050 for such redemption shall become eligible for sale or transfer by the automobile pawnbroker as a consequence of not being redeemed.

5.10.040 Land use and location requirements – Conformance with Title 17.

A. No automobile pawnbroker license will be issued unless the location is in accordance with the requirements of Title 17 and all other applicable provisions of law.

B. Approval of a location or of a use permit pursuant to Title 17 of this code does not guarantee or constitute approval of any automobile pawnbroker license.

5.10.050 Background investigation and finding of suitability.

A. Any person applying for an automobile pawnbroker license, key employees of an applicant or licensee and any person directly or indirectly involved with a license, are subject to a background investigation conducted by the North Las Vegas Police Department or other appropriate agency and must be found suitable to have a license or be involved with a license. A finding of suitability relates only to the specific involvement for which it is made. If the nature of the involvement changes from that for which the person is found suitable, or if in the judgment of the director, chief of police or city council, new information concerning the person's suitability has become available, such person may be required to submit to a new background investigation and finding of suitability.

B. Persons subject to a background investigation pursuant to this section shall pay all fees and costs associated with such investigation, including, without limitation, any fees associated with state and national criminal records investigations. The city's estimated costs for such investigation, including any state and national records investigation costs, shall be calculated by the city at least once a year and the basis for the calculation shall be published in a memorandum made available for public inspection and copying. The memorandum described herein shall not limit the city's ability to recover

additional investigation costs attributable to a particular investigation, including, without limitation, consultants and other third-parties hired by the city to assist in the investigation process.

C. In cases where the applicant for an automobile pawnbroker license is a corporation, limited partnership, limited-liability company or other juristic entity, the names of the officers, partners or members of the entity shall be listed on the application. The director shall determine who, if any of such officers, partners or members is required to submit to a background investigation and suitability finding. In the case of a publicly traded entity with officers, members or partners who will not be involved in the day-to-day operations of the business, such person will not be required to undergo a background investigation. However, all key employees will be required to submit to a background investigation prior to the submission of the application to city council. Any entity issued a license pursuant to this chapter must notify the division within thirty (30) days of any changes to the officers, partners or members. These individuals may be required to submit to a background investigation and be found suitable as provided in this chapter.

D. No investigation fee or new background investigation will be required of any applicant who has previously been investigated by the city provided that such applicant has held an active privileged city-issued business license within one (1) year preceding the present application. A new investigation fee and background investigation will be required of any applicant who may have been previously investigated by the city but has not held an active privileged city-issued business license within one (1) year preceding the present application.

E. Nothing in this section shall limit the discretion of the city to require key employees or others directly or indirectly involved with an applicant or licensee to undergo a background investigation and be found suitable when the public interest will be served by such a requirement.

5.10.060 Key employees.

A. Whenever it is the judgment of the director, the chief of police or the city council that the public interest will best be served by requiring any person to submit to a background investigation and finding of suitability as a key employee, the director must serve notice upon the licensee to make an application for such finding of suitability.

B. Grounds for requiring a finding of suitability of a person include, but are not limited to, situations where the person is new to the industry, new to the particular automobile pawnbroker establishment, new to the position or level of influence or responsibility, or where the city council, for reasons concerning the person's character, background, reputation or associations, deems it in the city's best interest to require such a finding of suitability.

C. The licensee must, within thirty (30) days following receipt of notice to submit a key employee for a finding of suitability, present an application related to such person to the director or provide evidence that such person is no longer employed by the licensee or no longer a key employee or in a position for which a finding of suitability is required. Application, investigation and payment of fees must be made in accordance with the requirements of this chapter.

D. Any licensee who continues to employ a person in a key employee position or in a position for which a finding of suitability is required without submitting such person to a finding of suitability or without that person having been approved to hold such a position after application is subject to disciplinary action, including license suspension and revocation.

5.10.070 License fees.

A. The semi-annual fee for each automobile pawnbroker licensee shall be four hundred dollars (\$400.00).

B. Any semi-annual fee which is not received on or before the due date shall be assessed a late-payment penalty in the amount equal to ten (10) percent of the amount of the semi-annual fee. If the semi-annual fee and penalty is not received by the city within fifteen (15) days after the due date, a late-payment penalty in the amount equal to thirty five (35) percent of such semi-annual fee shall be assessed. If the semi-annual fee and all penalties are not received by the city within sixty (60) days after the due date, the license shall be automatically revoked.

C. A license that has been revoked as provided in subsection (B) above may be reinstated by the director if, not later than sixty (60) days following the date the license was revoked, the licensee pays to the city: (i) The delinquent and unpaid semi-annual licensee fee; (ii) All applicable late-payment penalties; and (iii) A five hundred dollar (\$500.00) license reinstatement assessment.

5.10.080 Employee work cards.

Every employee of a licensee must obtain a work card and undergo a background investigation as provided in Chapter 42 of this title.

5.10.090 Limits of businesses licensed.

A. The license provided for in this chapter does not permit the licensee to conduct any other type of business other than the sale of pawned or pledged private automobiles after forfeiture according to law.

B. Only one automobile pawnbroker license shall be allowed for each location.

5.10.100 Change of location – Restrictions.

No license issued pursuant to this chapter is transferable to a new location unless such proposed location complies with and meets all of the requirements of this chapter and Title 17. Location changes are subject to a fifty dollar (\$50.00) processing fee.

5.10.110 License transfer or assignment.

Licenses issued pursuant to this chapter shall not be transferred or assigned to another person. Notwithstanding the foregoing, in the event of death or incapacitation of a natural person duly licensed pursuant to this chapter, the personal representative of the estate of the deceased licensee may continue to do business with the license for a period not to exceed one (1) year from the death of the licensee. Upon the death or incapacity of the licensee, the personal representative of the licensee shall promptly notify the

division of such facts and register with the division as the personal representative of the licensee.

5.10.120 Non-operational status.

A licensee may not discontinue operation of the business for more than a three (3) month period of time without city council approval. The city council may approve non-operational status of the business beyond the initial three (3) month period in time increments not to exceed one (1) year but in no event shall council approve any non-operational status beyond a maximum of two (2) years. A license shall be revoked at the expiration of the time periods provided by this section unless city council approval has been granted for an extension as provided in this section. All semi-annual license fees must be paid notwithstanding the licensee's non-operational status.

5.10.130 Retention of pawn – Right of redemption.

A. Each automobile pawnbroker must, pursuant to NRS 646.050, as may be amended or renumbered, retain each automobile pawned for at least one hundred twenty (120) days after the date of the pawn.

B. Each pawnor has a right to redeem the automobile pawned within the period of possession required in subsection (A) of this section. Any automobile not so redeemed may be sold by the automobile pawnbroker.

5.10.140 Record to be kept – Inspection.

A. Each automobile pawnbroker must maintain a book or other permanent record in which must be legibly written in the English language, at the time of each loan or receipt of personal property, a record thereof containing:

1. The date and time of the transaction;
2. The name or other identification of the person or employee conducting the transaction;
3. The name, age, street and house number, the serial number of one piece of positive identification or a work permit issued pursuant to NRS 463.335, as may be amended or renumbered, and a general description of the complexion, color of hair and facial appearance of the pawnor. In lieu of recording the serial number of a piece of positive identification or a work permit, the record may contain an indication that the automobile pawnbroker knows the pawnor;
4. A description of the property received in pledge;
5. The amount loaned;
6. The number of any pawn ticket issued therefore; and
7. The person with whom a transaction is had must, at the time of the transaction, certify in writing that he has the legal right to pledge or sell the property.

B. No entry made in such book may be erased, obliterated, or defaced.

C. The book, as well as every article or thing pawned or pledged must at all reasonable times be open to inspection by the director or the police department.

5.10.150 Daily report to be made to police – Contents.

Every automobile pawnbroker doing business in the city must, before the hour of twelve (12) p.m. of each day except Sunday, furnish in duplicate to the police department, a full, true and correct transcript of the record of all transactions had on the preceding day or as otherwise designated by the police department including without limitation electronic recordkeeping or reporting. The report made on each Tuesday must include all automobiles pawned or received from and after the report made and delivered on the Saturday preceding. If no automobiles have been pawned or received, a report must be made to that effect.

5.10.160 Manner of reporting.

The chief of police shall prescribe the manner in which automobile pawnbrokers must report their transactions.

5.10.170 Automobile pawns not to be taken from certain persons.

It is unlawful for any automobile pawnbroker or employee to receive any automobile in pawn or pledge from a person who is under the age of eighteen (18) years; or who is a person in an intoxicated condition; common drunkard; habitual user of controlled substances; habitual criminal; habitual or habitually fraudulent felon; known thief or receiver of stolen property or known associate of a thief or receiver of stolen property; whether the person is acting in one's own behalf or as the agent of another.

5.10.180 Minors not to receive pledges or make loans.

It is unlawful for any automobile pawnbroker to employ any person under the age of eighteen (18) years to receive any pawn or pledge or make a loan.

5.10.190 Liability of licensee.

An automobile pawnbroker is liable for the acts of all employees and for any violation by them of the provisions of this chapter.

5.10.200 Time for holding automobiles.

No automobile received in pawn or pledge by any automobile pawnbroker may be, if retained by the automobile pawnbroker, removed from the place of business, except when redeemed by the pawnor thereof, within thirty (30) days after the receipt thereof as reported to the police department.

5.10.210 Information required on pawn ticket.

The following information must be printed on the back of each pawn ticket required to be given to the pawnor:

In the event of failure to pay the loan within one hundred twenty days from the date hereof, or within ninety days after maturity, or within ninety days after payment of any monthly interest when due, whichever period of time is the greater, you shall hereby forfeit all right and title unto such pledged and pawned automobile to the automobile pawnbroker, who shall thereby acquire an absolute title to the same.

5.10.220 Safekeeping of pledges.

Every automobile pawnbroker must provide a safe place for the storage of automobiles received in pawn or pledge. The property on or within which automobiles are stored must comply with Title 17 of this code with respect to proper zoning districts and design standards for parking lots.

5.10.230 Interest rate – Handling charge.

A. It is unlawful for any automobile pawnbroker to charge or receive interest at a rate greater than provided for under state law for money lent on any automobile received in pawn or pledge, and no person shall ask for or receive a higher rate of interest or discount on any such loan or on any actual pretended sale or redemption of any such automobile.

B. An automobile pawnbroker may for any loan made assess a handling charge of five dollars (\$5.00) in addition to the interest rate.

C. It is unlawful for any automobile pawnbroker to charge or receive an appraisal fee, storage fee or any charge other than those hereinabove specified.

5.10.240 Application of other ordinances.

The terms and conditions of this chapter are intended to be applied in conjunction with all other ordinances and applicable laws for the protection of the public health, safety and general welfare. The fact that such ordinances and laws are not specifically referred to in this chapter does not preclude their application to licensees or applicants.

SECTION 2: NON-INFRINGEMENT OF RIGHTS. The City Council of the City of North Las Vegas has been informed by the City Attorney as to the constitutionality of this ordinance and based upon such information we are adopting this ordinance in good faith with a reasonable belief that the actions taken by the City of North Las Vegas are not in violation of any rights, privileges or immunities secured by the laws providing for equal rights of citizens or persons.

SECTION 3: EFFECTIVE DATE. This ordinance shall become effective after its passage by the City Council of the City of North Las Vegas, and after such passage by the City Council, publication once by title in a newspaper qualified pursuant to the provisions of Chapter 238 of the Nevada Revised Statutes, as amended from time to time.

SECTION 4: PUBLICATION. The City Clerk shall cause this ordinance, immediately following its adoption, to be published once by title, together with names of the council members voting for or against passage, in a newspaper qualified pursuant to the provisions of Chapter 238 of the Nevada Revised Statutes, as amended from time to time.

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PASSED AND ADOPTED ON THE _____ DAY OF _____, 2009.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED:

Shari L. Buck, Mayor

ATTEST:

APPROVED AS TO FORM:

Karen L. Storms, CMC, City Clerk

Nicholas G. Vaskov, Acting City Attorney