

ORDINANCE NO. 5487

AN ORDINANCE TO REPEAL THE REQUIREMENT FOR A PRECIOUS METALS AND PRECIOUS GEMS LICENSE BY REPEALING CHAPTER 5.40 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the City of Rapid City requires a license for any person, firm, or corporation to engage in the business of dealer in precious metals and precious gems; and

WHEREAS, the licensing requirement for precious metals and gems dealers is found in Chapter 5.40 of the Rapid City Municipal Code; and

WHEREAS, the City of Rapid City has determined that the license for dealers of precious metals and precious gems is no longer necessary to promote public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 5.40 of the Rapid City Municipal Code is hereby repealed in its entirety.

~~CHAPTER 5.40: DEALERS IN PRECIOUS METALS AND GEMS~~

~~5.40.010 Definitions.~~

~~— For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~— A. **CASUAL PURCHASES OF PRECIOUS METALS OR PRECIOUS GEMS.** The occasional purchase of precious metals or precious gems for the purchaser's own use and not for resale. Any purchase from a dealer in precious metals or precious gems shall be considered a casual purchase.~~

~~— B. **DEALER IN PRECIOUS METALS OR PRECIOUS GEMS.** Any person who engages in a business of purchasing or receiving, for resale, any precious metals or any precious gems which were previously sold at retail, or coins, with the exception of gold coins and numismatic coins. This shall not include any person who makes only casual purchases of precious metals or precious gems; nor any person who purchases only at wholesale; nor any person who purchases only occasionally at a coin show or antique show, the primary purpose of which is showing, rather than buying or selling, the regulated articles; nor any sales made in the administration of the estate of a deceased person; nor any person who deals in recognized forms of investment gold, silver or platinum bars or ingots, issued or produced by any recognized governmental authority or private corporation, or banking institution, on which is stamped the name or initials of the government, the private corporation, or banking institution, the quantity of metal contained in the bar or ingot, and the government, corporation or bank seal.~~

~~— C. **NUMISMATIC COINS.** Those coins whose value is in excess of their bullion or metal value and in excess of their legal tender value on the date of the particular transaction.~~

~~—D.— **PERSON.** Any individual partnership, corporation, or association, or any other legal entity, or any agent or employee thereof.~~

~~—E.— **PRECIOUS GEMS.** Diamonds, emeralds, rubies, sapphires and pearls, and any other gem of similar value, and any article made, in whole or in part, of the gems.~~

~~—F.— **PRECIOUS METALS.** Gold, silver and platinum and any article made, in whole or in part, of any such metals.~~

~~—G.— **REGULATED TRANSACTIONS.** The purchase or receipt by a dealer, other than a casual purchase, of any precious metal or precious gem previously sold at retail, but shall exclude purchases at an occasional coin or antique show, the primary purpose of which is showing, rather than buying or selling, the regulated articles.~~

~~5.40.020 License Required.~~

~~—It is unlawful for any person, firm or corporation to engage in the business of dealer in precious metals and precious gems without first obtaining a license from the city's Finance Office. The application for the license shall contain all pertinent information required by Chapter 5.04 of this code and the city's Finance Office, and shall be issued and governed in accordance with Chapter 5.04. Any person applying for a dealer in precious metals and precious gems license must, before their application will be considered, come to the Rapid City Police Department and furnish adequate identification. No license under this chapter shall be issued to any person who has been convicted of a felony; no license under this chapter shall be issued to any corporation, 1 or more officers or directors of which have been convicted of a felony.~~

~~5.40.030 License Fee.~~

~~—A.— The annual license fee for a dealer in precious metals or precious gems license shall be \$25, payable in advance.~~

~~—B.— Any person having a business which encompasses more than 1 of the 3 designated categories set forth in this chapter, and all businesses being conducted on 1 premises, shall obtain all appropriate licenses, but the total fee for licenses for the single premises shall not exceed \$100.~~

~~5.40.040 License Term.~~

~~—The term of the license shall be in accordance with Chapter 5.04 of this code.~~

~~5.40.050 License Display.~~

~~—The licenses required by § 5.40.020 for dealers in precious metals and precious gems shall at all times be on display in a conspicuous place and available for inspection by city police officers during reasonable business hours. This section shall not apply when the license is being taken to the city's Finance Office to have a change of location recorded.~~

~~5.40.060 Fixed premises required.~~

~~—A.— No person shall engage in business as a dealer in precious metals or precious gems unless the person has a fixed premises where the business is conducted, either on a continuing basis or from time to time, and unless the person has first obtained a license to engage in that business at that premises.~~

~~—B.— For the purposes of this section, fixed premises shall include any nonmobile premises where the business is conducted and the precious metals or precious gems are held according to the provisions of § 5.40.110, whether or not that premises remains in the same location during the period the license is in effect.~~

~~5.40.070 Separate places of business License and bond requirements.~~

~~—Any person, firm or corporation conducting several or separate places of business shall pay the appropriate license fees and procure the appropriate licenses and bond for each place of business. The proprietor's license shall be sufficient for all clerks, agents and employees engaged at the place named in the license.~~

~~5.40.080 Change in location of licensed premises.~~

~~—If, during the effective period of a license issued under this chapter, a dealer in precious metals or gems changes the location of the licensed premises within the city, the dealer shall inform the city's Finance Officer of the change of location and shall have the new premises to be licensed noted on the license. There shall be no additional fee charged for changing the location of the licensed premises.~~

~~5.40.090 License Suspension or revocation.~~

~~—A.— A license issued to a licensee under this section, who shall have violated the provisions of this chapter, may be suspended for a prescribed period not to exceed 60 days, in the event of a failure on the part of the licensee to comply with the provisions of this chapter after 10 days written notice and a public hearing.~~

~~—B.— A license issued to a licensee under this section, who shall have violated the provisions of this section, may be revoked by the Common Council of the city after 10 days written notice and a public hearing.~~

~~5.40.100 Recordkeeping requirements.~~

~~—A.— Every dealer in precious metals or precious gems shall keep books or records of regulated transactions in a manner satisfactory to the Chief of Police, or his or her designee, where he or she shall accurately and intelligibly enter, in ink, in the English language at the time of the regulated transaction, and after requiring and observing identification from the person seeking to sell the precious metal or precious gem the following information:~~

~~——1.— The name of the person from whom the precious metal or precious gem was purchased, his or her place of residence and his or her date of birth;~~

~~——2.— A detailed and accurate description of each article, which shall include, if available, the manufacturer's name, style model number, serial number, engraved initials or other~~

identifying marks, except that coins may be described only by the number of each denomination and face type;

~~3. The date and time of regulated transaction;~~

~~4. If the seller is not personally known to the dealer or the dealer's agent, the dealer is required to obtain the person's drivers license number and the state of issuance or, if available, the identifying number from at least 1 form of government-issued identification; or~~

~~5. The amount paid for the article.~~

~~B. Any person who fails to keep such records or fails to make required entries therein, or shall intentionally or knowingly make any false or unintelligible entry, or any entry which he or she has reason to believe is untrue, or who shall fail to make the inquiries necessary to enable him or her to make the entries or any of them, or who shall fail to produce his or her records when requested by a city police officer during reasonable business hours, or who shall destroy or wilfully permit the records to be destroyed or lost, shall be guilty of a misdemeanor.~~

~~C. The records required by this section shall be maintained for 1 year after the date of purchase or receipt and shall be made available for inspection to city police officers during reasonable business hours.~~

~~5.40.110 Holding period.~~

~~A. All precious metals or precious gems purchased or received by a dealer through a regulated transaction shall be identifiable to the record of that transaction and shall be held on the licensed premises of the dealer, or some other secure location within the city and shall not be disposed of nor altered from the form in which it was received, except on written release from the Chief of Police or his or her designee, for a period of either:~~

~~1. Ten days from the date of the regulated transaction; or~~

~~2. Three working days from the date of the regulated transaction if the dealer will deliver the required records to the Rapid City Police Department. The 3 working day period shall commence at the time the records are delivered to the Rapid City Police Department, excluding Saturdays, Sundays or calendar holidays.~~

~~B. When articles are acquired by a dealer in precious metals and precious gems in a group, they shall be kept together for identification purposes and not separated until the 10 day period or 3 day period has elapsed, unless released prior on written authorization by the Chief of Police or his or her designee.~~

~~5.40.120 Hold orders Effect.~~

~~The Chief of Police or any authorized city police officer may, by written order, order a dealer in precious metals or precious gems to hold any article or articles, deposited with or in custody of the dealer in precious metals or precious gems, for purposes of further investigation by the Police Department when the item or items are believed stolen. A hold order shall remain in effect for a period of 30 days commencing the day of which the hold order was delivered to the~~

~~dealer in precious metals and precious gems. A hold order shall supersede the provisions of § 5.40.110, and no sale or other disposition may be made of the article or articles while the hold order remains outstanding, unless released by officers issuing the hold order.~~

~~5.40.130 Transactions with minors prohibited.~~

~~— It is unlawful for any dealer in precious metals and precious gems to purchase any articles from an individual under the age of 18 years of age.~~

~~5.40.140 Inspection Police Department's authority/duty.~~

~~— A. — It shall be the duty of the Rapid City Police Department to periodically contact the licensed premises under this chapter to inspect or obtain copies of records required to be kept according to § 5.40.100, setting forth a description of the person by whom they were sold.~~

~~— B. — The Chief of Police or his or her designee shall have the power and authority to require the reports to be made in a manner and form subject to his or her approval.~~

~~5.40.150 Inspection Premises.~~

~~— No dealer in precious metals and precious gems or any other personnel shall refuse, resist or attempt to prevent any city police officer without a warrant from examining the licensed premises occupied by the dealer in precious metals and precious gems, or other secured premises within the city limits where property is stored, during reasonable business hours for the purpose of discovering stolen property.~~

~~5.40.160 Inspection Records.~~

~~— The books or records required by § 5.40.100 to be kept by dealers in precious metals and precious gems shall be open to the inspection of city police officers during reasonable business hours.~~

~~5.40.170 Inspection Concealing articles to prevent identification.~~

~~— No dealer in precious metals or precious gems shall conceal, secrete or destroy, for the purpose of concealing, any article purchased or received by him or her, for the purpose of preventing identification thereof by city police officers.~~

~~5.40.180 Application to pawnbrokers and secondhand dealers.~~

~~— All provisions of this chapter shall apply to a person licensed as a pawnbroker or secondhand dealer under Chapter 5.36 of this code, who is engaged in business as a dealer in precious metals or precious gems, except that all the appropriate licenses and bonds must be obtained, and if more than 1 license is obtained for 1 premises, the total license fees shall not exceed \$100, as stated in §§ 5.36.030C. and 5.40.030B.~~

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: