

<div>DEPARTMENT OF LICENSES AND INSPECTIONS</div> <div>CODE INTERPRETATION</div> <div>9-1701</div>		<div>CODE OF GENERAL ORDINANCES OF THE CITY OF PHILADELPHIA</div> <div>TITLE 9</div> <div>REGULATION OF BUSINESSES, TRADES AND PROFESSIONS</div>
<div>SUBJECT OF INTERPRETATION:</div> <div>PAWNBROKER AND PRECIOUS METAL DEALER LICENSES</div>		<div>REFERENCE CODE SECTION(S):</div> <div>9-603 and 9-615</div>
<div>ISSUED BY</div>		<div>ISSUE DATE:</div> <div>March 15, 2017</div>
<div>NAME:</div> <div>Michael Fink</div>		
<div>TITLE:</div> <div>Chief Code Official</div>		
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QUESTION:

Is a pawnbroker, who also deals in precious metals as part of his/her operation of a pawnshop, required to maintain active licenses for each activity?

DISCUSSION:

The Philadelphia Code requires Pawnbrokers (§ 9-603) and Dealers in Precious Metal (§ 9-615) to be licensed at each location from which they undertake such activity.

The requirements for pawnbrokers and precious metal dealer licenses are nearly the same. Both require registration with an online inventory tracking system account with the Philadelphia Police Department. This registration requires an annual fee of \$300, which is in addition to the license fee. The Regulations applicable to both licenses were established on May 2, 2012.

The Zoning Code includes the following definition for a pawnshop, which includes dealing in precious metals:

Pawnshop. An establishment that is engaged to any extent in any of the following business or activities:

- (.i) *the lending of money on the deposit or pledge of personal property, other than chosen in action, securities or written evidence of indebtedness;*
- (.ii) *the purchase of personal property either from an individual, another pawn business or any other business with an expressed or implied agreement or understanding to offer the property for sale to the public, and if that sale is unsuccessful, then to sell it back to the previous owner at a subsequent time at a stipulated price or negotiated price;*
- (.iii) *the purchase of precious metals with the intent to melt down, provided that such activity is not clearly incidental to the principal use of the establishment; or*
- (.iv) *the lending of money upon personal property, goods, wares, or merchandise pledge, stored or deposited as collateral security.*

The Zoning Code considers a pawnshop to be a subcategory of the “personal credit establishment” specific use type. A personal credit establishment is considered a “regulated use” by the Zoning Code. Regulated uses have higher standards for zoning/use registration permit approval and for discontinuance of their operations.

The Zoning Code does not allow the issuance of a license related to the use of the property until there is confirmation that such use is compliant with the Zoning Code. For the Department to issue a pawnbroker license, the location must have a valid zoning/use registration permit issued specifically for a pawnshop.

For the Department to issue a precious metal dealer license, the location may have a valid use/registration permit for several different use categories, including pawnshop, but also other uses in which the purchase of precious metals with the intent to melt down is “clearly incidental to the principal use of the establishment” such as a jewelry store.

Therefore, the Zoning Code establishes that a location, approved through a zoning/use registration permit for a pawnshop, has a higher threshold than uses that allow for dealing in precious metals.

Because a pawnshop allows for the purchase of precious metals with the intent to melt down, a literal interpretation of the code would require both a pawnbroker license AND a dealer in precious metals license. Each license fee is \$200. Each license requires the same \$300 electronic registration fee. Therefore, the annual license fees for a single pawnshop location would total \$1,000, not including licenses for scales, etc.

The Courts have found that fees charged by a municipality for the services it renders in performing its official functions must be based on the costs of the municipality in performing that service. A municipality cannot use its power to charge fees for issuing licenses or permits for the purpose of raising revenue for general governmental purposes.

INTERPRETATION:

A location licensed for pawnbroker activity shall not require an additional license for a dealer in precious metal activity, as the Zoning Code allows both activities to occur in a pawnshop.

Those holding a license for pawnbroker who deal in precious metals shall be required to meet the requirements § 9-615 where they conduct such activity, even though they are not required to hold a precious metal dealer license.

An application for a license for pawnbroker activity must include proof of a valid zoning/use registration permit for use as a pawnshop prior to the issuance of such license.

A location licensed for a dealer in precious metal activity may not be issued a pawnbroker license until a zoning/use registration permit has been issued for a pawnshop.