

ORDINANCE NO.

AN ORDINANCE AMENDING STOCKTON MUNICIPAL CODE, TITLE 5, CHAPTER 5.28- PAWNBROKERS, SECONDHAND DEALERS, AND JUNK DEALERS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE

Stockton Municipal Code Chapter 5.28- Pawnbrokers, Secondhand Dealers, And Junk Dealers is hereby amended to read as follows:

CHAPTER 5.28- PAWNBROKERS, CASH FOR GOLD STORES, SECONDHAND DEALERS, EXCHNGE DEALERS, AND JUNK DEALERS

Article I. General Provisions

5.28.010 Purpose and Intent.

The City Council of the City of Stockton desires to fairly and impartially regulate retail transactions of Pawnbrokers, Cash for Gold stores, Exchange Dealers and Secondhand Dealers for the purpose of:

1. Identifying stolen property unintentionally received by the regulated parties; and
2. Detecting regulated parties intentionally transacting business in stolen property.

5.28.020 Definitions.

For purposes of this chapter, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended.

A. "Cash for Gold Stores" means any person who engages in the retail purchase and resale of precious metals.

B. "Exchange Dealer" means and includes every person who engages in or conducts the business of accepting secondhand articles in full or partial payment for any other article or articles carried as stock in trade by such person, and shall include the acceptance of any article in full or partial payment for an rebuilt or remanufactured article of similar or different nature. This definition shall not apply to dealers whose principal or primary business is retailing or wholesaling new merchandise.

C. "License" means a license issued by the State of California Department of Justice to operate as either a pawnbroker or secondhand dealer within a specific jurisdiction.

D. "Pawnbroker" means a person, other than banks, trust companies or bond brokers who may otherwise be regulated by law and authorized to deal in commercial papers, shares of stock, bonds and other certificates of value, who keeps a loan office or pawn shop and is engaged in conducting, managing or carrying on the business of loaning money, for herself/himself/itself or for any other person, upon receipt of personal property, including jewelry and precious stones, other personal security, pawns or pledges, or the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors or their assignees, at prices agreed upon at or before the time of such purchase. A pawnbroker is also a secondhand dealer but a secondhand dealer is not necessarily a pawnbroker.

E. "Pawnshop" means any room, store or place in which business or activity described under the definition of pawnbroker, is carried on or conducted,

F. "Permit" means a permit issued by the police chief pursuant to this chapter to operate as either a pawnbroker, cash for gold store, exchange dealer or secondhand dealer within the City of Stockton.

G. "Person" means any person, individual, group, firm, association, partnership, corporation, company, sole proprietorship, or any other legal entity.

H. "Police Chief" means the chief of police of the City of Stockton and his or her designee.

H. "Secondhand dealer" shall have the same meaning as that term is defined in California Business and Professions Code Section 21626 and includes cash for Gold Stores and Exchange Dealers. A "secondhand dealer" does not include a coin dealer or participants at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, as amended from time to time, or any successor provision of law or regulation.

5.28.030 Permit Required- Compliance with other laws.

A. Unless exempt pursuant to Section 5.28.040, it is unlawful for any person to engage in or conduct a cash for gold, pawnbroker or secondhand dealer business as defined in Section 5.28.020 without a permit.

B. Neither the obtaining of a permit nor compliance with the operating standards provided in this chapter shall obviate the need for, or excuse any noncompliance with, the zoning code, building code, fire code, or any other additional permit requirement or standard made applicable to cash

for gold, pawnbroker or secondhand dealer businesses under any other provision of this code or state or federal law.

5.28.040 Exemption from the permit requirement.

The following are exempt from the permit requirement pursuant to this chapter. This exemption does not relieve these businesses from complying with all other applicable laws, including but not limited to, the provisions listed in the definition of secondhand dealer in Section 5.28.020 above, all operational standards contained in Article II, and all other laws related to crime and nuisance.

A. Religious, charitable, public service clubs, or nonprofit organizations conducting the periodic sale of goods, wares or merchandise as set forth in the definition of secondhand dealer in Section 5.28.020.

B. Any person whose principal business is not the buying and selling or receiving pledges of used or secondhand articles, when such person receives office equipment, scales or musical instruments from any governmental subdivision or manufacturing business or professional concern known to the secondhand dealer which concern has used said article or articles in its business.

Article II. Operations

5.28.050 Application of article.

This article is intended to implement minimum standards applicable to the operation of all pawnbrokers, cash for gold stores, and secondhand dealer establishments whether or not such establishments are subject to the permit requirement of Article I. Nothing in this article shall limit the city's authority to impose and enforce permit conditions under Section 5.28.030, requiring pawnbroker, cash for gold, and secondhand dealer establishments to comply with operating standards that are more strict, comprehensive, or onerous than the minimum standards imposed by this article.

5.28.060 Days and Hours of Operation.

A. It is unlawful for any person conducting or maintaining the business of a pawnbroker, cash for gold store, secondhand dealer, or exchange dealer, or any agent or employee thereof, to keep or cause to be kept, such a place of business open on any of the following holidays, or, the day that holiday is officially observed: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. On any other day, said business shall operate only between the hours of seven a.m. and nine p.m.; provided, however, that on Saturdays and days preceding the aforesaid holidays, such business may be kept open until eleven p.m.

- B. Any person engaged in conducting any business other than those set forth in Section A above, on the same premises as such business, or in conjunction with the same, shall notwithstanding, close the place of such other business at the same time and in the same manner as herein provided. No person shall be engaged in any occupation at such place of business or businesses, or remain therein, during any such time such place of business or businesses is by this section required to be closed.

5.28.070 Display of permit.

Every permit issued pursuant to this chapter shall be conspicuously displayed so that it may be easily seen by any person on the premises.

5.28.080 Permit non-transferable; Change of Address or Contact information.

Any permit issued pursuant to this chapter is valid only at the address and for the person specified therein and is not transferable to any other person. Change of the establishment address requires the pawnbroker, cash for gold store, exchange dealer or secondhand dealer to notify the City of Stockton Police Department in writing ten (10) calendar days prior to the establishment moving to its new location. Failure to notify the Stockton Police Department of the change of address shall render any permit issued pursuant to this chapter void and any operation of a pawnbroker or secondhand dealer establishment unlawful.

5.28.090 Record of Transactions.

- A. Every person managing, maintaining or conducting the business of any pawnbroker, cash for gold store, exchange dealer or secondhand dealer, in the city shall keep, or cause to be kept, at the store or place of business, a record of each transaction.
- B. The record shall include a description of such article received or delivered in such transaction sufficient to identify the same, including serial number and all particular or prominent marks of identification that may be found on such property, the signature, address, age, sex, residence, legible thumbprint, identification card information and accurate description of the vendor or person receiving, delivering, or transferring the property or who is otherwise dealt with, the amount of money paid or received in such transaction, the rate of interest, if any, and the date and hour of the transaction. This record must be kept on a form approved by the California Department of Justice, written legibly in English and in ink
- C. At the time of each transaction, the person from whom the property is being received must present a valid identification card. If the identification card is not valid, then it must have been issued within the last five years.

5.28.100 Record of transactions to Chief of Police.

- A. Every person engaged in any of the businesses described in Section 5.28.090 shall be required, at the time of taking or receiving any article in the business for which he or she is so licensed, to place the description of the article or thing pledged, received, or taken, on the face of a form approved by the California Department of Justice and shall within 24 hours (excluding Sundays and holidays) in the case of pawnbrokers and secondhand jewelry dealers and 48 hours (excluding Sundays and holidays) in the case of secondhand dealers, after buying, purchasing or otherwise receiving such goods, wares and merchandise, including radios for use in or upon automobiles, make out and deliver to the Chief of Police, or authorized agent, the original copy of the transaction filled out on the form authorized by the California Department of Justice. The form may also be submitted electronically at the discretion of the business owner.
- B. Each business shall retain a copy of all transactions for a period of three (3) years from the date of the transaction.

5.28.110 Inspections and Reports.

A. The record of transactions required by the provisions contained within Section 5.28.090 shall be open for inspection by the Police Department at any time during business hours, and the Police Department shall also have the right to thoroughly inspect the premises, store or place where the business so recorded is being conducted at any time in search of any lost or stolen property, or to compare the entries kept in such records with the articles located on such premises or place of business. All persons in charge of such business, and the agents and employees thereof, shall render to the Police Department such assistance as may be reasonably necessary to enable it in such inspection or search. The person in charge of such business shall provide the Police Department, each day excepting holidays, a copy of said record of transactions.

B. Any alteration of any copies of the record of transactions as set out in Section 5.28.090 shall be unlawful.

C. It is unlawful for any pawnbroker, cash for gold store, exchange dealer, or secondhand dealer located in the city to make any purchase, exchange, pledge, pawn, or other transfer of possession of any article unless the same is recorded as set out in Section 5.28.090.

5.28.120 Receipt Books.

A. Every person maintaining or conducting the business of a pawnbroker, cash for gold store, exchange dealer, or secondhand dealer in the City of Stockton shall keep or cause to be kept, at the store or place of business, receipt books as hereinafter

described. Such books shall be kept in addition to the record of transactions required by Section 5.28.090, and shall consist of duplicate sheets of white paper not less than four by seven inches in size and bearing consecutive numbers. One of each of said duplicate pages shall be so perforated as to enable its removal.

B. One of the aforesaid books shall be kept for the recording of, and the receipting for, sales, and there shall be printed at the top of the perforated sheet, in colored type, not less than three-eighths of an inch in height, the following words: "This is a sale and not a pledge."

C. One of the aforesaid books shall be kept for recording of, and the receipting for, pledges, and there shall be printed at the top of the perforate sheet, in colored type, not less than three-eighths of an inch in height, the following words: "This is a pledge and not a sale."

5.28.130 Customer Receipts.

A. It is unlawful for pawnbrokers, cash for gold stores, exchange dealers or secondhand dealers to make any purchase, exchange, pledge, pawn, or other transfer of possession of any article, unless the same is recorded in one of the receipt books required by Section 5.28.120, setting forth the name and address of the pawnbroker, a description in the English language of the article involved in such transaction, the date of the sale, the name of the customer with whom such transaction is made, the rate of interest charged, if any, the term of redemption, if any, and the same shall be signed by the pawnbroker or his or her agent making such transaction. The perforated sheet, which shall be the original duplicate, shall, after being filled out as herein provided, be delivered to the person with whom the transaction is made. The duplicate thereof shall be kept by the pawnbroker for a period of at least two years next following the date of the transaction, and shall, during such time, be available at all times during business hours for inspection by the Stockton Police Department.

B. Any alteration of such duplicate sheet shall constitute a misdemeanor.

5.28.140 No permits to Minors.

No permit shall be issued for any pawnbroker, cash for gold store, exchange dealer or secondhand dealer business if the applicant is under eighteen (18) years of age, or if the applicant is a firm, partnership or corporation, if any member of such firm or partnership is under eighteen (18) years of age.

5.28.150 Purchase from minors and servants.

It is unlawful for any person maintaining or conducting the business of any pawnbroker, cash for gold store, exchange dealer, or secondhand dealer, or any agent or employee thereof, to purchase or take goods or articles or things offered to him or her by any minor, or knowingly purchase or take such goods, articles or things from any servant or

apprentice without first ascertaining that such article or thing is the property of the person delivering the same, or that such servant or apprentice has the authority from the owner to deliver or sell such property. The word "minor" shall mean any person described in Section 6500 of the Family Code who is not an emancipated minor as provided for in section 7002 of the Family Code.

5.28.160 Declaration of Legal Status.

It is unlawful for any person maintaining or conducting the business of pawnbroker, cash for gold store, exchange dealer, or secondhand dealer, or any agent or employee thereof, to purchase or take goods or articles or things offered to him or her by any person under the age of eighteen (18) years of age who claims legal status as an emancipated minor pursuant to Family Code Section 7002, unless such person shall have executed and delivered to said cash for gold store, pawnbroker or secondhand dealer, or any agent or employee thereof, a certificate substantially as follows:

I hereby declare under penalty of perjury that the following is true and correct (1) I have entered into a valid marriage, whether or not the marriage has been dissolved; (2) I am on active duty with the armed forces of the United States; or (3) I have received a declaration of emancipation pursuant to Family Code Section 7122.

Executed at Stockton, California

Dated: _____

Signed: _____

5.28.170 Merchandise to be held.

All articles purchased, received, exchanged, pledged, pawned, or otherwise taken into possession by any person maintaining or operating the business of pawnbroker, cash for gold store, exchange dealer or secondhand dealer, or the employee or agent thereof, the retention of which is not otherwise provided for by law, shall, except as hereinafter otherwise provided, be held for a period of thirty (30) days before being placed on exhibition, sold, exchanged, removed from the place of business where it was received or delivered to any person, or otherwise disposed of; provided, however, that any such article may be delivered or returned at any time to the true owner thereof or his or her authorized agent; provided further, any furniture, household furnishings, files, desks, chairs, safes, or other office equipment need not be held for more than five (5) days pursuant to the provisions of this section.

5.28.180 Hold Order

The Police Department may place a hold-order upon property acquired by a pawnbroker, cash for gold store, exchange dealer or secondhand dealer, in the course

of his or her business for a period of ninety (90) days and, upon release of such property, may require the dealer to keep a record of the disposition of such property. It is unlawful for any such dealer to dispose of any property contrary to any hold-order issued by a member of the Police Department.

5.28.190 Identification of customers in certain establishments.

It is unlawful for any person in the city to pledge, pawn, sell, exchange or otherwise transfer property to a pawnbroker, cash for gold store, exchange dealer or secondhand dealer, under any fictitious or assumed name or address or under any name other than his or her true and legal name and address.

5.28.200 Articles to be identified by tags.

It shall be the duty of each pawnbroker, cash for gold store, exchange dealer, and secondhand dealer to attach to each article so received, a tag, or other device, containing sufficient information so that the article described and recorded in the bound book may be readily identified.

5.28.210 Intoxicated persons.

It is unlawful for any person engaged in the businesses described in this chapter, or his/her/its manager, agent or employee, to take or receive any goods, articles or things from any person who is in an intoxicated state or condition, or from any person who is a suspected or known thief, or associate of thieves, or a suspected or known receiver of stolen property, or from any persons he/she/it may reasonably suspect to be contained in any of the foregoing categories.

Article III. Issuance, Renewal, Suspension and Revocation

5.28.220 Issuance.

A. Before any permit or permits to engage in any of the businesses defined in this chapter is granted, the applicant shall file with the Chief of Police, a written application, signed by the applicant under oath, setting forth the following:

1. The exact nature of the business or businesses to be carried on;
2. The name of the applicant, together with all persons to be directly or indirectly interested in the conducting of said business or businesses should a license or licenses be granted, including all members of any firm or partnership;
3. The location of the proposed business or businesses for which the license or licenses is sought;

4. Whether or not any permit or license heretofore granted to the applicant or any members of the proposed firm or partnership has been revoked or suspended, and if so, the circumstances of such revocation or suspension;

5. Such further information bearing on the moral character and financial responsibility of the applicant as the Chief of Police may require as reasonably bearing on the qualifications of an applicant to engage in the businesses herein named.

6. The signatures of three residents of the City of Stockton, certifying to the good moral character and reputation of the person or persons making such application.

B. At the time of the filing of an application, the applicant and all persons to be directly and indirectly interested in the permit if granted, including all members of any firm, partnership, or corporation, shall be fingerprinted at the request of the Police Department.

5.28.230 Grounds for Denial.

The Chief of Police may deny an application for any of the following reasons:

- A. The proposed use is in conflict with the City of Stockton Zoning Ordinance;
- B. The proposed use is in conflict with any health, building, building maintenance, or other provision of this code or State law;
- C. Violation of any provision of this division;
- D. Fraud, misrepresentation, or false statements in securing a permit;
- E. Fraud, misrepresentation or false statements made in the course of the applicant's business
- F. Conviction within the preceding five (5) years, of any public offense relating to theft, damage or trespass to property or to the operation of a business;
- G. Conviction by any of the applicants or interested parties for felonies or any crimes involving theft, obtaining money or property by false pretenses, receiving stolen property, extortion, embezzlement, or a violation of any provision of this chapter or any other law regulating pawnbrokers or laws relating to moral turpitude and financial responsibility.

5.28.240 Renewal

- A. An application requesting a renewal of a permit shall include the following:

1. **Renewal Fee.** A permit issued pursuant to this chapter is invalid unless the appropriate renewal fee has been paid in full and the term of the current permit has not expired.
 2. **Permit Expires After One Year.** The permit issued pursuant to this chapter shall be for one year. Each permittee shall apply for the renewal of the permit and submit the permit fees no later than 30 days prior to expiration of the permit term.
 3. A declaration signed under oath that the applicant has, within the last 30 days prior to applying to renew a permit, carefully reviewed this Chapter as well as the State law holding and reporting requirements for tangible personal property as referenced in Section 5.28.090.
- B. **Expiration of Permit.** A permit issued pursuant to this chapter that is not timely renewed shall expire at the end of its term. To reinstate a permit that has expired, or to renew a permit not timely renewed pursuant to Section 5.28.240(A)(2), a person must:
1. Submit the permit fee plus a reinstatement fee of ten percent of the permit fee.
 2. Submit a signed declaration affirming that the proprietor has not sold and will not sell any merchandise regulated by the provisions of this chapter after the permit expiration date and before the permit is renewed.

C. **Action on Permit Renewal Application**

The Chief of Police shall make a determination on any renewal application within thirty (30) days of receipt of the application. The Chief of Police shall not grant a renewal if it appears that the applicant is not qualified to conduct or maintain the proposed business, either for moral, financial, or other relevant reasons.

5.28.250 Suspension and Revocation.

In addition to the grounds set forth elsewhere in this chapter, the Chief of Police may suspend or revoke a pawnbroker, cash for gold store, exchange dealer, or secondhand dealer's permit for any of the following:

- A. Demonstrated pattern of violating or failing to comply with the terms and conditions of the permit.
- B. Any act which violates any of the grounds for denial of the permit.
- C. Demonstrated pattern of violating any other provisions of this chapter or any federal, state, local law, or regulation relating to his or her permitted activity.

- D. Demonstrated pattern of engaging in or permitting misconduct substantially related to the qualifications, functions, or duties of the permittee.
- E. Conducting the business in a manner contrary to the peace, health, or safety of the public.
- F. Knowingly making any false, misleading or fraudulent statement of material fact in the application or in any documentation required to be filed in conjunction with said application.
- G. Conviction of a crime involving an attempt to receive stolen property or any other offense involving stolen property. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- H. If the pawnbroker's, cash for gold stores, exchange dealers, or secondhand dealer's state license has expired or has been suspended or revoked.

Article IV. Penalties for Violation

5.28.260 Penalty.

Every person who violates any of the provisions of this chapter shall be prosecuted in accordance with the provisions of Title 1, Chapters 1.08 and 1.40, for criminal and administrative civil penalties.

5.28.270 Cumulative Remedies, procedures and penalties.

Unless otherwise expressly provided, the remedies, procedures and penalties provided by this chapter are cumulative to each other and to any others available under state law or other city ordinances.

Article V. JUNK DEALERS

5.28.280 Definitions.

Except as otherwise specified in this section, the terms used in this article shall have the same meaning as those terms are defined in the California Business and Professions Code, Chapter 9, Article 3, Section 21600, et seq., or as those sections may subsequently be amended.

"Buy book" means a written record of junk dealer transactions, containing forms that shall be completed with the following information, in accordance with California Business and Professions Code Section 21606:

1. The place and date of each sale or purchase of junk.
2. The name, valid driver's license number and State of issue or valid California-issued identification card number of the person buying or selling junk, and vehicle license number, including the State of issue of any motor vehicle used in transporting the junk to the junk dealer's place of business.
3. The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's place of business.
4. A description of the item or items of junk purchased or sold, including the item type and quantity, model number and/or model name, and identification number, if visible.
5. A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

This subsection shall incorporate any subsequent amendments to California Business and Professions Code Section 21606.

"Chief of Police" means the Chief of Police of the City of Stockton and his or her designee.

"Hazardous materials" means those materials, as defined in California Health and Safety Code Section 25260, or as that section may subsequently be amended. (Ord. 015-07 C.S. § 2; prior code § 6-102.1)

5.28.290 Scope of Article.

This article shall not apply to those persons or transactions set forth in California Business and Professions Code Sections 21603 and 21604, or as those sections may subsequently be amended. (Ord. 015-07 C.S. § 2; prior code § 6-102.2)

5.28.300 License to Operate required.

A. It is unlawful for any person to engage in, conduct, or operate the business of junk dealer in the City without first securing a license to do so from the Chief of Police.

B. A recycler, processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the California Public Resources Code shall not be subject to the requirements of this article, but shall be regulated by provisions of Chapter 9, Article 3 (commencing with Section 21600) of the California Business and Professions Code. (Ord. 015-07 C.S. § 2; prior code § 6-102.3)

5.28.310 Application for Junk Dealer License.

The applicant for a license to engage in, conduct, or operate the business of junk dealer shall file an application on a form provided by the Chief of Police and shall pay a filing fee, which shall not be refundable. (Ord. 015-07 C.S. § 2; prior code § 6-102.4)

5.28.320 Contents of Application.

The application for a license to engage in, conduct or operate a business of junk dealer shall set forth the name and address of each applicant, the proposed place of business and the facilities to be used, including whether the junk dealer will engage in welding, use of a propane tank, or cutting torches operated by compressed gasses, and such other information as the Chief of Police deems necessary to investigate the applicant and the applicant's proposed place of business. (Ord. 015-07 C.S. § 2; prior code § 6-102.5)

5.28.330 Corporate Applicants.

If the applicant for a license is a corporation, the application shall set forth the name of the corporation exactly as set forth in the Articles of Incorporation, together with the names and addresses of each officer, director and shareholder owning more than 10 percent of the stock of such corporation. (Ord. 015-07 C.S. § 2; prior code § 6-102.6)

5.28.340 Partnership Applicants.

If the applicant to engage in, conduct, or operate the business of junk dealer is a partnership, the application shall set forth the names and addresses of each partner, including limited partners. If one or more of the partners is a corporation, the provisions for corporate applicants shall apply to such corporate partners. (Ord. 015-07 C.S. § 2; prior code § 6-102.7)

5.28.350 Verification of application.

Every application for a license shall be verified in accordance with the provisions of the California Code of Civil Procedures governing the verification of pleadings. (Ord. 015-07 C.S. § 2; prior code § 6-102.8)

5.28.360 Referral of applications to other departments.

Within five (5) City business days from receiving an application to engage in, conduct or operate the business of junk dealer, the Chief of Police shall refer the application to the Building Department, Fire Department, and the Planning Department for inspection of the premises proposed to be operated as a junkyard by the applicant. Each department shall make written recommendations to the Chief of Police, no later than 30 calendar days after receiving the referral. (Ord. 015-07 C.S. § 2; prior code § 6-102.9)

5.28.370 Determination by Chief of Police.

A. The Chief of Police is authorized to issue a junk dealer's license upon making findings consistent with the general policy of this article. Such findings shall include, at a minimum, the following:

1. That the premises to be used by the applicant as a junkyard conform to all applicable laws, including, but not limited to, the building, housing, health and safety, fire, and development codes of the City;
2. That the applicant has appropriate permits for welding, use of propane tanks, or cutting torches operated by compressed gasses if the license holder will use such items in the business;
3. That the applicant has not been convicted of a crime involving the possession or theft of property, fraud, hazardous materials or the environment, or crimes related to the operation of a junk dealer; provided, however, the Chief of Police shall not take into account a conviction that occurred at least five (5) years prior to the date of the application and, as of the date of the application, at least five (5) years have elapsed since the applicant was released from any disability resulting from the conviction and the applicant has no subsequent convictions for a felony or misdemeanor offense involving the possession or theft of property, fraud, hazardous materials or the environment, or crimes related to the operation of a junk dealer;
4. That the proposed location of the business is a suitable place to carry on the business of junk dealer. In making this finding, the Chief of Police may take into consideration the effect of the issuance of the license on the surrounding inhabitants and businesses;
5. That the applicant has not had any license or permit to engage in a business or profession within the State of California revoked because of a violation of law or because of violation of regulations promulgated by the regulating agency having control or jurisdiction over the license or permit. However, the Chief of Police shall not consider any such revocation if it occurred at least five (5) years prior to the date of the application; and
6. That the applicant has not had civil penalties imposed by a court or other government agency related to the operation of a junk dealer business or relating to hazardous materials or the environment within the past five (5) years prior to the date of application.

B. Within 30 calendar days of receiving all of the recommendations from the departments, the Chief of Police shall, in writing, grant, conditionally grant, or deny the

application. If the Chief denies the application, he or she shall include the reasons for the denial in the written determination. Failure of the Chief to act within the specified time shall not entitle the applicant to issuance of the license. (Ord. 015-07 C.S. § 2; prior code § 6-102.10)

5.28.380 Appeal from denial of license.

The action of the Chief of Police in denying a junk dealer license may be appealed to the City Manager. The notice of appeal shall be in writing, and shall state the grounds for the appeal, admitting and denying those determinations of the Chief of Police included in the notice of denial. The notice of appeal shall be filed with the City Manager within 10 City business days after the denial of the license application. Upon failure to file such notice within the 10-day period, the action of the Chief of Police in denying the license shall be final and conclusive.

If the notice of appeal is timely filed, accompanied by payment of an appeal fee in an amount as may be established from time to time by resolution of the City Council, the City Manager shall schedule the matter for hearing. The City Manager may, in his or her sole discretion, hear the appeal, designate a member of City staff to hear the appeal, or submit the appeal to an administrative hearing officer. Except as otherwise provided in this article, the hearing shall be conducted in accordance with the provisions of Chapter 1.40 of this code. (Ord. 015-07 C.S. § 2; prior code § 6-102.11)

5.28.390 Name and place of business—Change of location.

No person granted a license pursuant to the provisions of this article shall operate under another name or in any location not specified on the license. (Ord. 015-07 C.S. § 2; prior code § 6-102.12)

5.28.400 Transfer of license.

No license issued pursuant to the provisions of this article shall be transferred to any other person or to any other location without the written consent of the Chief of Police; provided, however, that upon the death or incapacity of the licensee, the junkyard may continue for a reasonable period of time to allow for an orderly transfer of the license. (Ord. 015-07 C.S. § 2; prior code § 6-102.13)

5.28.410 Annual renewal.

The holder of a valid junk dealer license issued pursuant to the provisions of this article shall be entitled to have the license renewed annually in accordance with the following procedures:

- A. An application for renewal of any such license, verified in accordance with Section 5.28.250, shall be filed with the Chief of Police no later than 30

calendar days before the anniversary date of the license for which renewal is sought;

- B. The licensee shall include the following with the renewal application:
1. Documentation of all notices of violation related to the operation of the business during the past year issued by any governmental entity, including the City, to the business, property owner, license holder, or employees;
 2. Documentation specifying corrective actions taken to address previous notices of violation or other conditions placed on the business;
 3. Documentation of criminal citations related to the operation of the business issued to the business, property owner, license holder or employees, including citations for failing to comply with State or local law applicable to junk dealers, or for receiving stolen property;
 4. Updated information, if any, regarding the license holder or owner of the business, including change of address, change of ownership, or change of partnership or corporate status; and
 5. If applicable, documentation proving that the license holder has valid permits for the use of welding equipment, propane tanks, or cutting torches operated by compressed gasses on the premises or as part of its business.
- C. If based on the information specified in subsection B of this section, the licensee is in compliance with the requirements of this article, and if there have been no material changes in the operation of the junk dealer business that have not been previously approved by the City, the license shall be deemed renewed for another one (1) year period and the Chief of Police shall issue such renewal. (Ord. 015-07 C.S. § 2; prior code § 6-102.14)

5.28.420 Operations of junk dealer.

A. Holding Period. Each junk dealer shall maintain on the business premises in the same condition as purchased for a period of five (5) City business days all junk purchased by the licensed business, including “ferrous and nonferrous scrap metals and alloys,” as defined in California Business and Professions Code Section 21600, or as that section may subsequently be amended. The holding period shall not apply to aluminum cans. The holding period may be extended for a period not to exceed 14

calendar days at the request of a peace officer, but no further extensions may be imposed without a court order,

B. Inspection. Each junk dealer shall consent, during normal business hours, to periodic inspection of the premises and operations of the junk dealer at the junkyard, including articles stored on the premises. Such inspection may be conducted by any peace officer or other authorized person, pursuant to California Business and Profession Code Section 21606.5, or as that section may subsequently be amended.

C. Buy Book. Each junk dealer shall maintain a buy book in the following manner:

1. Fill out the form completely for every transaction;
2. Require the seller to present a valid form of identification at the time of each transaction and record the information from that piece of identification at the time of the transaction, in accordance with California Business and Professions Code Sections 21650 and 21652, or as those sections may subsequently be amended;
3. Consecutively number each transaction in the buy book and consecutively number each buy book;
4. Include in each buy book all voided receipts;
5. Preserve each buy book for a period of three (3) years after making the final entry of any purchase or sale of junk; and
6. Allow inspection by law enforcement agencies of the buy book, in accordance with California Business and Professions Code Section 21606.5, or as that section may subsequently be amended.

D. Identification of Metals by Tagging. Each item of ferrous and nonferrous scrap metals and alloys purchased by a junk dealer shall be identified by affixing to it a tag containing the transaction number specified in subsection (C)(3) or this section. The tag shall remain affixed to the item for the duration of the holding period specified in subsection (A) of this section. Aluminum cans shall be exempt from the tagging requirement.

E. Posting of License. The junk dealer license shall be posted in a conspicuous place at the junkyard.

F. Maintenance of Premises. Each junk dealer shall maintain the sidewalks, driveways and other areas adjacent to the premises clear of obstacles, trash and debris.

G. Loitering Near Premises. Each junk dealer shall take reasonable steps to ensure that its customers do not loiter in the areas adjacent to or near the premises. (Ord. 015-07 C.S. § 2; prior code § 6-102.15)

5.28.430 Holding period exemption.

After investigation by a peace officer or other officer designated by the Chief of the Police, the officer may approve a retention period of less than five (5) City business days, by endorsing in writing on the junk dealer's copy of the buy book form an authorization to release specified items. (Ord. 015-07 C.S. § 2; prior code § 6-102.16)

5.28.440 Prohibitions on particular purchases.

No person holding a junk dealer license shall purchase:

- A. Any item from a seller who does not present at the time of the transaction a valid driver's license or other valid government-issued identification.
- B. Automotive or mechanical parts that contain hazardous materials.
- C. Goods where the license holder or employee has or should have reason to believe that the goods may be stolen. (Ord. 015-07 C.S. § 2; prior code § 6-102.17)

5.28.450 Computation of time.

In computing the number of days for the retention of junk pursuant to the provisions of this article, the day of purchase shall not be counted, nor shall Saturdays, Sundays or days declared to be holidays by Section 6700 or 6701 of the Government Code of the State be counted. (Ord. 015-07 C.S. § 2; prior code § 6-102.18)

5.28.460 Cause for suspension or revocation of license.

A license issued to a junk dealer may be suspended or revoked at any time by the Chief of Police after a hearing for cause. "Cause" includes, but is not limited to:

- A. Violation of any of the provisions of this article, including violations by employees where the license holder knew or should have known of the violation.
- B. Refusal to permit any peace officer, or other authorized person, to inspect the premises, including the operations of the junk dealer and the junk stored on the premises, in accordance with Section 5.28.320(B) and (C)(6).
- C. Violation of the Business and Professions Code of the State relating to the operations of a junk dealer.
- D. Violation of the Stockton Municipal Code, including but not limited to the building, housing, health and safety, fire, and development codes.
- E. Failure to maintain buy books in the manner required by this subdivision, including failure to completely fill out the required form.
- F. Use of welding equipment, propane tanks, or cutting torches operated by compressed gasses without valid permits. (Ord. 015-07 C.S. § 2; prior code § 6-102-19)

5.28.470 Appeal of suspension or revocation of license.

A. Notice of Suspension or Revocation. The Chief of Police may initiate suspension or revocation proceedings by sending written notice setting forth the cause for the suspension or revocation, in accordance with Section 5.28.360. The notice shall be served by personal delivery or by certified mail, return receipt requested, to the licensee's business address as approved in the license.

B. Appeal of Suspension or Revocation. The action of the Chief of Police in suspending or revoking a junk dealer license shall be subject to an appeal. The notice of appeal shall be in writing, and shall state the grounds for the appeal, admitting and denying those determinations of the Chief of Police included in the notice of suspension or revocation. The notice of appeal shall be filed with the City Manager within 10 City business days after the denial of the license application. Upon failure to file such notice within the 10-day period, the action of the Chief of Police in suspending or revoking the license shall be final and conclusive.

If the notice of appeal is timely filed, accompanied by payment of an appeal fee in an amount as may be established from time to time by resolution of the City Council, the City Manager shall schedule the matter for hearing with an Administrative Hearing Officer. Except as otherwise provided in this article, the hearing shall be conducted in accordance with the provisions of Chapter 1.40 of this code. (Ord. 015-07 C.S. § 2; prior code § 6-102.20)

5.28.480 Immediate suspension.

A. Notwithstanding any other provision of this article, the Chief of Police shall have the authority to suspend a junk dealer license immediately if the Chief determines, based on reasonable cause, that the junk business poses an immediate threat to the safety of the public or the employees. The suspension shall be accomplished by sending written notice setting forth the grounds for the suspension. The notice shall be served by personal delivery or by certified mail, return receipt requested, to the licensee's business address as approved in the license.

B. Within 24 hours after sending the notice to the license holder, the Chief shall transmit a copy of the notice, together with the reasons for the suspension, to the City Manager. Within 10 calendar days of service of the notice to the license holder, the City Manager shall schedule the matter for hearing, in accordance with Section 5.28.370(B). (Ord. 015-07 C.S. § 2; prior code § 6-102.21)

5.28.490 Penalty.

A. Violation of the provisions of this chapter, with the exception of Sections 5.28.360(E) and (F), shall be punishable as a misdemeanor by a fine not to exceed \$1,000.00 or by imprisonment in the County Jail not to exceed six (6) months or by both such fine and imprisonment.

B. Violation of Sections 5.28.360(E) and (F) of this article shall be punishable as follows:

1. First Conviction. Any person violating Sections 5.28.360(E) and (F) shall be guilty of an infraction. Upon conviction, the violator shall be punished by a fine of not to exceed \$500.00 for each provision violated.

2. Subsequent Convictions. In any accusatory pleading charging a violation of Sections 5.28.360(E) or (F), if the defendant has been previously convicted of a violation of either of those sections, each previous violation and conviction may be charged in the accusatory pleading. Any person violating any provision of this section a second time shall be guilty of an infraction or a misdemeanor, at the discretion of the prosecutor. A violation which is an infraction is punishable by a fine of not less than \$500.00 or more than \$1,000.00 for each provision violated. A violation that is a misdemeanor is punishable by a fine of not more than \$1,000.00, or by imprisonment in the County Jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. 015-07 C.S. § 2; prior code § 6-102.22)

5.28.500 License fees.

Every person issued a license pursuant to the provisions of this article shall pay an annual license fee, payable in advance to the Finance Department. (Ord. 015-07 C.S. § 2; prior code § 6-102.23)

5.28.510 Business license.

Nothing in this chapter negates the requirement for a valid business license issued in accordance with Chapters 5.04 through 5.20 of this title. (Ord. 015-07 C.S. § 2; prior code § 6-102.24)

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SECTION II. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION III. EFFECTIVE DATE

This Ordinance shall take effect and be in full force 30 days after its' passage.

ADOPTED: _____

EFFECTIVE: _____

ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

BONNIE PAIGE, City Clerk
of the City of Stockton