

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING SECTION 5.38.030 OF THE CHULA VISTA MUNICIPAL CODE TO AUTHORIZE THE COLLECTION OF PAWNBROKER, SECONDHAND AND JUNK STORE DEALER LICENSE BIENNIAL RENEWAL FEES AND SECTION 5.38.120 TO AUTHORIZE THE COLLECTION OF PAWNSHOP EMPLOYEE IDENTIFICATION CARD ANNUAL RENEWAL FEES

WHEREAS, the State of California Business and Professions Code 21641 permits local licensing authorities to assess fees to recover their full costs of processing applications for pawnbrokers, secondhand, or junk store dealers; and,

WHEREAS, the State of California Department of Justice license for a pawnbroker, secondhand, or junk store dealer is valid for two years; and,

WHEREAS, the existing City of Chula Vista Municipal Code Section 5.38.030 relating to Pawnbrokers, Secondhand, and Junk Store Dealers does not specify the term of a license; and,

WHEREAS, the existing City of Chula Vista Municipal Code Section 5.38.120 relating to pawnshop employee identification cards does not specify the valid term of a card.

NOW THEREFORE the City Council of the City of Chula Vista does hereby ordain as follows:

Section I.

Chula Vista Municipal Code Chapter 5.38 is hereby amended to read as shown in attachment A.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented By:

David Bejarano
Chief of Police

Approved as to form by:

Carol A. Trillo

Glen R. Googins
City Attorney *for Charles Hawkins*

Chapter 5.38

PAWNBROKERS, SECONDHAND AND JUNK STORE DEALERS*

Sections:

- 5.38.010 License – Required – Taxes – Prerequisites – Scope.
- 5.38.020 Definitions.
- 5.38.030 License – Permit prerequisite – Investigation fee – Application – Contents required.
- 5.38.040 Pawnbroker or secondhand dealer – Records to be kept.
- 5.38.050 Pawnbroker, junk or secondhand dealer – Reports required – Time.
- 5.38.060 Pawnbroker or secondhand dealer – Records and reports – Contents required.
- 5.38.070 Junk dealer or collector – Records to be kept.
- 5.38.080 Use of fictitious name prohibited.
- 5.38.085 Transacting business with minors prohibited.
- 5.38.090 Disposal of merchandise – Restrictions.
- 5.38.100 Hours and days for conducting business.
- 5.38.110 Exceptions to applicability – Donations.
- 5.38.120 Pawnshop – Employee identification card required.
- 5.38.130 Junkyard, secondhand dealer or auto wrecker – Compliance required – Generally.
- 5.38.140 Junkyard, secondhand dealer or auto wrecker – Enclosure required.
- 5.38.150 Junkyard, secondhand dealer or auto wrecker – Gates on fence.
- 5.38.160 Junkyard, secondhand dealer or auto wrecker – Permitted height of stored materials.
- 5.38.170 Junkyard, secondhand dealer or auto wrecker – Signs or materials not permitted where.
- 5.38.180 Junkyard, secondhand dealer or auto wrecker – Inflammable liquids to be drained from vehicles.
- 5.38.190 Junkyard, secondhand dealer or auto wrecker – Inspection requirements.
- 5.38.200 Junkyard, secondhand dealer or auto wrecker – Compliance required – License prerequisite.
- 5.38.210 License – Revocation or suspension when.
- 5.38.220 License – Public hearing on suspension/revocation.

* For statutory provisions authorizing cities to license businesses for purposes of revenue and regulation, see Gov. Code § 37101; for statutory provisions authorizing cities to license businesses in the exercise of police power, see Bus. and Prof. Code §§ 16000 – 16003.

For provisions regarding auctions and auctioneers, see state law.

5.38.010 License – Required – Taxes – Prerequisites – Scope.

Every person conducting, engaging in, or carrying on the business of pawnbroker or junk or secondhand dealer or collector shall possess a valid, existing and unrevoked license therefor. Such license or licenses shall be issued by the director of finance of the city upon the payment of a tax as presently designated, or as may in the future be amended, in Section 5.38.010 of the master tax schedule in CVMC 5.07.030; provided, however, that said director of finance shall not issue any such license without the consent in writing first having been had and obtained from the chief of police and presentation of the police permit, as required pursuant to the provisions of CVMC 5.38.020, et seq. Nothing in this section or this chapter contained shall be deemed or construed to apply to the loaning of money on personal property or personal security by any bank authorized to do so under the laws of the state. (Ord. 2408 § 1, 1990; Ord. 1560 § 1, 1974; Ord. 1462 § 1, 1973; Ord. 1294 § 1, 1970; Ord. 1009 § 1, 1966; prior code § 18.62).

5.38.020 Definitions.

For the purpose of this chapter and the licensing requirements of CVMC Title 5, the following definitions shall apply:

- A. "Auto recycler" means and is any person engaged in the purchasing of motor vehicles or used motor vehicle parts or used motor vehicle motors, as the term "motor vehicle" is defined in the California Vehicle Code, for the purpose of reconditioning and salvaging, or dismantling or disassembling, parts, materials, tires and accessories; for the purpose of reconditioning any other motor vehicle, or selling or otherwise dealing in the materials or parts of motor vehicles; or for the resale of such items. Any person who has dismantled three or more motor vehicles for the above purposes during any one calendar year shall be classified as an auto recycler.
- B. "Junk collector" means and is defined as a person not having a fixed place of business in the city who goes from house to house, or from place to place, gathering, collecting, buying, selling or otherwise dealing in any old rags, sacks, bottles, cans, papers, metal (including gold or mercury), or other articles commonly known as junk.
- C. "Junk dealer" means and is defined as a person, not an auto wrecker, having a fixed place of business in the city and engaged in conducting, managing or carrying on the business of buying, selling, or otherwise dealing in old rags, sacks, bottles, cans, papers, metal (including gold or mercury), or other worn or discarded articles, either at wholesale or retail.
- D. "Pawnbroker" means and is defined as a person engaged in, conducting, managing or carrying on the business of pawnbroking, or the business of loaning money, for himself or for any other person, upon personal property, or the business of purchasing articles of personal property, and reselling or agreeing to resell such articles to the vendors, or their assigns, at prices agreed upon at or before the time of such purchase.
- E. "Pawnshop" means and is defined to be any room, store or place in which any such business is engaged in, carried on, or conducted.

F. "Secondhand dealer" means and is defined as any person buying, selling or otherwise dealing in secondhand goods, wares and merchandise, other than a used car dealer, a dealer in secondhand books or magazines, or secondhand clothing. (Ord. 2037 § 1, 1983; Ord. 1931 § 1, 1981; Ord. 1769 § 1, 1977; Ord. 1008 § 2, 1966; prior code § 17.1).

5.38.030 License – Permit prerequisite – Investigation fee – Application – Contents required.

A. No license shall be issued to any pawnbroker, junk or secondhand dealer in the city as defined herein pursuant to the provisions contained in CVMC 5.38.010 without the written approval and a permit therefor having been obtained from the chief of police. The chief of police shall charge a nonrefundable required fee(s), or the required renewal fee(s), to cover the cost of investigating the applicant. Such licenses, when issued, shall expire two years from the date of issuance and may be renewed only by filing a written request for renewal, accompanied by the license fee and copy of the license to be renewed. Every person wishing to engage in the business of pawnbroker or junk or secondhand dealer shall file an application for a permit, signed by the applicant, with the chief of police, and the application shall show the following information:

1. Permanent home address and full local address of applicant;
2. A brief description of the nature of the business and goods to be sold;
3. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;
4. The fingerprints of the applicant;
5. A statement as to whether or not the applicant has ever been convicted of any offense involving stolen property, and if so, the details in general of such convictions, and specifying the particular crimes or misdemeanors involved and the dates and places of such convictions.

B. In the event that the chief of police, upon investigation, should determine that the issuance of such a permit to the applicant would be detrimental to the public health, safety, and general welfare of the city, either because of the moral character of the applicant or the creation of a policing problem as a result of the establishment of a pawnshop or junk or secondhand shop in a particular location, or showing that an increase in the number of pawnshops or junk or secondhand shops over and above the existing number within the city would be detrimental to the public health, safety and general welfare, said findings shall be prepared in writing and delivered to the applicant. The applicant may, upon receipt of such notice of denial, appeal such denial to the city council, within 10 days of the receipt of the denial, by filing a notice of appeal with the city clerk of the city. The council shall set the matter of the denial for hearing in the same manner as set forth in CVMC 5.38.210 and 5.38.220. (Ord. 2506 § 1, 1992; Ord. 2408 § 1, 1990; Ord. 1961 § 1, 1982; Ord. 1931 § 1, 1981; Ord. 1008 § 2, 1966; prior code § 17.2).

5.38.040 Pawnbroker or secondhand dealer – Records to be kept.

All pawnbrokers and dealers in secondhand articles of every kind, nature and description shall keep a record on forms approved by the chief of police of any and all articles acquired by such persons by purchase, pledge or otherwise. Each transaction shall be kept in chronological order concurrent with the making of said transaction, and shall at all times during ordinary business hours be open to inspection by any police officer of the city. (Ord. 1931 § 1, 1981; Ord. 1008 § 2, 1966; prior code § 17.3(A)).

5.38.050 Pawnbroker, junk or secondhand dealer – Reports required – Time.

A. Every pawnbroker, secondhand and junk dealer, on each day except Sundays and legal holidays, before the hour of 10:00 a.m., shall make and deliver to the chief of police, in writing, upon blank forms of a type and content as approved by the chief of police and provided by said pawnbroker or junk dealer, a full, true and complete report, in chronological order, of all dealings in secondhand goods, wares and merchandise by such pawnbroker or junk dealer during the 24 hours preceding said report.

B. Exceptions. The following are excluded from the operation of this chapter:

1. Secondhand property which a dealer has acquired from another person who, under applicable state and/or local laws, has previously reported such secondhand property to the appropriate police agency.

The dealer acquiring such property shall keep records of all such acquisitions, which shall be presented to the police department upon demand. (Ord. 1931 § 1, 1981; Ord. 1769 § 1, 1977; Ord. 1008 § 2, 1966; prior code § 17.3(B)).

5.38.060 Pawnbroker or secondhand dealer – Records and reports – Contents required.

The records and reports described in CVMC 5.38.040 and 5.38.050 shall contain the time of day when the article was purchased or received, a complete description of each article purchased or received, and a reasonable description of the person or persons from whom purchased or received, or with whom dealt, and the true name and address of such person or persons, as nearly as same is known to, or can be ascertained by, the person making such report, and a certification by the intended seller that to his or her knowledge and belief the information is true and complete. If any such article purchased or received has engraved thereon any serial number, word or initial, or contains any setting of any kind, the description of such article shall contain such serial number, word or initial, and shall show the kind of setting or settings and the number of each kind. Such records shall also contain the amounts of money loaned and the length of time during which such loan is to continue and the rate of interest exacted for such loan. Any such report made, delivered or received pursuant to this chapter shall be open only to the inspection of the police department of the city, unless exhibited by order of court of competent jurisdiction. (Ord. 1931 § 1, 1981; Ord. 1008 § 2, 1966; prior code § 17.3(C)).

5.38.070 Junk dealer or collector – Records to be kept.

All persons engaged as junk dealers or collectors shall keep a record of any and all articles acquired by purchase, swap or otherwise, which record shall contain the name and address of seller, date of transaction and such other information as may be required by the chief of police. Such records may be destroyed after one year. Any such report or record made, delivered or received pursuant to this chapter shall be open only to the inspection of the police department during ordinary business hours, unless exhibited by order of a court of competent jurisdiction. (Ord. 1008 § 2, 1966; prior code § 17.4).

5.38.080 Use of fictitious name prohibited.

It is unlawful for any person to sign or give a fictitious name or address upon the deposit, sale or pledge of any goods, wares, merchandise or thing of value, or for use in the report form required to be made by the provisions of this chapter or for use in the register required to be kept by the provisions of Section 339 of the Penal Code. (Ord. 1008 § 2, 1966; prior code § 17.5).

5.38.085 Transacting business with minors prohibited.

No pawnbroker or secondhand dealer or junk dealer shall purchase or receive in pledge any personal property from any person under the age of 18 years. (Ord. 1931 § 1, 1981).

5.38.090 Disposal of merchandise – Restrictions.

It is unlawful for any pawnbroker or secondhand dealer to sell or otherwise dispose of any article, merchandise or object within 30 days, except to the pledgor after same has been received or purchased, or to fail to keep such article, merchandise or object unaltered, as pledged or purchased, in lots separate and apart from other articles, merchandise or objects in the place of business of such pawnbroker or secondhand dealer in the city for a period of 30 days from the date of pledge or purchase thereof, except upon the approval of the chief of police; provided, however, that junk dealers, collectors, and secondhand dealers may, upon approval of the chief of police, sell or otherwise dispose of any such items within seven days. (Ord. 1931 § 1, 1981; Ord. 1008 § 2, 1966; prior code § 17.6).

5.38.100 Hours and days for conducting business.

It is unlawful for any person conducting, managing or carrying on the business of pawnbroker or secondhand dealer, buying or selling used jewelry, watches, diamonds, clothing, musical instruments, luggage and sports goods, except a dealer in secondhand automobiles or furniture, to conduct such business as follows:

A. Between the hours of 6:30 p.m. and 8:30 a.m. on weekdays, except that during the month of December such places of business shall be permitted to remain open until 9:00 p.m.;

B. Between the hours of 6:30 p.m. on Saturday and 8:30 a.m. on Monday;

C. On the following holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. (Ord. 1008 § 2, 1966; prior code § 17.7).

5.38.110 Exceptions to applicability – Donations.

The provisions of this chapter shall not apply to any person who sells or deals in secondhand goods, wares or merchandise which have been donated to said person or the organization which he represents. A donation occurs, for the purposes of this chapter, when a gift is made to the person or his organization, for which gift no money, property or other goods or services of value are exchanged or to be received in the future. (Ord. 1008 § 2, 1966; prior code § 17.8).

5.38.120 Pawnshop – Employee identification card required.

Every person who is to be employed by the owner of the pawnshop in the conduct of the business shall first file an application for an identification card, signed by the applicant with the chief of police. The application shall show the following information:

- A. Permanent home address and full local address of the applicant;
- B. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- C. The fingerprints of the applicant;
- D. A statement as to whether or not the applicant has ever been convicted of any offense involving stolen property, and if so, the details in general of such convictions, and specifying the particular crimes or misdemeanors involved and the dates and places of such convictions.

No person carrying on the business of a pawnbroker shall employ anyone who has not received such a police identification card and such identification card shall not be issued if the applicant has been convicted of a crime involving stolen property. A nonrefundable required fee(s), or the required renewal fee(s), shall be charged for such identification card. Such identification cards, when issued, shall expire one year from the date of issuance and may be renewed only by filing a written request for renewal, accompanied by the annual license fee and a copy of the license to be renewed. (Ord. 2506 § 1, 1992; Ord. 2408 § 1, 1990; Ord. 1961 § 1, 1982; Ord. 1931 § 1, 1981; Ord. 1680 § 1, 1976; Ord. 1008 § 2, 1966; prior code § 17.9).

5.38.130 Junkyard, secondhand dealer or auto wrecker – Compliance required – Generally.

It is unlawful for any person to carry on, maintain or conduct the business of junk dealer, junk collector, salvage or junkyard, or junk or secondhand material storage or to deal in secondhand articles, other than motor vehicles, in the city, or to carry on, maintain or conduct the business of auto wrecker, whether conducted in conjunction with the sale of used motor vehicles or not, unless such business is carried on, maintained or conducted in compliance with the regulations set forth in this chapter. (Ord. 1008 § 2, 1966; prior code § 17.10).

5.38.140 Junkyard, secondhand dealer or auto wrecker – Enclosure required.

Any business described in CVMC 5.38.130 shall be carried on, maintained or conducted entirely inside an enclosed building, unless the premises on which such business is carried on, maintained or conducted is entirely enclosed by a solid fence or wall at least six feet in height and constructed according to the requirements of the building code. The fence or wall required by this section shall be maintained in a neat, substantial, safe condition and shall be painted. (Ord. 1008 § 2, 1966; prior code § 17.11).

5.38.150 Junkyard, secondhand dealer or auto wrecker – Gates on fence.

Fence gates for access to the premises shall not swing outwardly, and shall be kept closed when the premises are not open for business. Not more than one gate shall be constructed and maintained on each side of the lot or parcel of real property on which such business is conducted, and no such gate shall exceed 20 feet in width. (Ord. 1008 § 2, 1966; prior code § 17.12).

5.38.160 Junkyard, secondhand dealer or auto wrecker – Permitted height of stored materials.

No junk, secondhand articles, automobile salvaged parts, metals, tires or accessories shall be piled, or permitted to be piled, in excess of the height of the enclosing fence or wall, or nearer than two feet thereto. No automobile shall be stored or piled on top of another automobile. (Ord. 1008 § 2, 1966; prior code § 17.13).

5.38.170 Junkyard, secondhand dealer or auto wrecker – Signs or materials not permitted where.

No signs, new materials offered for sale, junk, secondhand articles, automobiles, automobile parts, metals, tires or accessories shall be displayed, offered for sale, stored upon, or deposited upon any public street, alley, sidewalk, public parkway or other public place. (Ord. 1008 § 2, 1966; prior code § 17.14).

5.38.180 Junkyard, secondhand dealer or auto wrecker – Inflammable liquids to be drained from vehicles.

All gas or other inflammable liquids shall be drained and removed from any unregistered motor vehicle located thereon. (Ord. 1008 § 2, 1966; prior code § 17.15).

5.38.190 Junkyard, secondhand dealer or auto wrecker – Inspection requirements.

The premises shall be so arranged that reasonable inspection or access to all parts of the premises can be had at any time by the proper fire, health, police and building authorities. (Ord. 1008 § 2, 1966; prior code § 17.16).

5.38.200 Junkyard, secondhand dealer or auto wrecker – Compliance required – License prerequisite.

No license, nor any renewal thereof, shall be hereafter issued unless or until the chief of police has reported to the finance officer that the provisions of CVMC 5.38.130 through 5.38.190 have been complied with. (Ord. 1008 § 2, 1966; prior code § 17.17).

5.38.210 License – Revocation or suspension when.

In the event that any person holding a license authorizing him to engage in, conduct, manage or carry on the business of a pawnbroker or secondhand dealer, or any agent or employee of any such person, violates or causes or permits to be violated any of the provisions of this chapter, or has been convicted of any crime involving stolen property, the Chief of Police shall, in addition to the other penalties provided by this chapter, forthwith suspend the business license or licenses and cause said business to be immediately closed. The Chief of Police shall notify the license holder of the suspension of said license by delivering a notice of such suspension to the license holder or his agent or employee. Delivery of such notice may be made personally or by placing such notice in an envelope properly addressed to such license holder with postage prepaid, sealed and deposited in the United States mail. A licensee, upon suspension of such license, shall have the right to appeal to the City Manager from such order of suspension by the Chief of Police by the filing of a notice of appeal, paying appropriate appeal fees as set forth in the master fee schedule and stating the grounds therefor. Such appeal shall be filed with the City Manager within 10 days after notification of suspension. The City Manager shall utilize the provisions of Chapter 1.40 CVMC regarding notice, appeal and hearing governing the exhaustion of administrative remedy for the revocation or suspension of permits. (Ord. 2718 § 1, 1998; Ord. 1931 § 1, 1981; Ord. 1761 § 1, 1977; Ord. 1008 § 2, 1966; prior code § 17.18(A)).

5.38.220 License – Public hearing on suspension/revocation.

The City Manager shall refer the notice of appeal for hearing in accordance with Chapter 1.40 CVMC, and the licensee shall be notified in writing of the time, place and date of hearing, which shall be not less than 10 days from the filing of the notice of appeal. If the license or licenses of any person licensed by this chapter is so revoked, no license shall be granted to such person to conduct or carry on such business within six months after such revocation. During the period of suspension or revocation, the Chief of Police shall sequester any pledged or pawned goods and hold said goods at the police station in the City or other secured location, and shall post an appropriate notice at the place of business that such goods may be reclaimed at the police station. (Ord. 2718 § 1, 1998; Ord. 1761 § 1, 1977; Ord. 1008 § 2, 1966; prior code § 17.18(B)).