

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF MERCED, CALIFORNIA,  
AMENDING CHAPTER 5.28, "SECONDHAND  
DEALERS AND PAWNBROKERS," OF THE  
MERCED MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF MERCED DOES ORDAIN  
AS FOLLOWS:**

**SECTION 1. AMENDMENT TO CODE.** Chapter 5.28,  
"Secondhand Dealers," of the Merced Municipal Code is hereby amended to read  
as follows:

**"CHAPTER 5.28  
SECONDHAND DEALERS AND PAWNBROKERS**

**Section:**

- 5.28.010 Law Governing.**
- 5.28.020 Definitions.**
- 5.28.030 Permit Required.**
- 5.28.040 Application.**
- 5.28.050 Investigation by Chief of Police.**
- 5.28.060 Denial of Permit.**
- 5.28.070 Fees.**
- 5.28.080 Permits Nonassignable.**
- 5.28.090 Renewal of Permits.**
- 5.28.100 Inspection by Chief of Police.**
- 5.28.110 Prohibition Against Accepting Goods  
From Specific Individuals.**
- 5.28.120 Compliance with Zoning Regulations.**
- 5.28.130 Business License Required.**
- 5.28.140 Violation—Penalties.**

- 5.28.010 Law Governing.**

Subject to regulation by the State of California, all  
secondhand dealers must comply with the requirements  
set forth in the California Business and Professions Code,

Division 8, Chapter 9 (Section 21500 *et seq.*). A pawnbroker is regulated by Division 8 (Section 21000 *et seq.*) of the Financial Code. A licensed pawnbroker is exempt from the secondhand dealer licensing requirements pursuant to Sections 21641 and 21642 of the Business and Professions Code and may engage in any secondhand dealer transaction. However, a pawnbroker conducting secondhand dealer activities must comply with all the secondhand dealer laws.

**5.28.020 Definitions.**

(a) ‘Pawnbroker’ is every person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan pursuant to Section 21000 of the Financial Code, as amended from time to time.

(b) ‘Secondhand dealer’ shall include any person, corporation, firm, or organization whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning or auctioning secondhand tangible personal property pursuant to Section 21626 of the Business and Professions Code, as amended from time to time.

**5.28.030 Permit Required.**

It shall be unlawful for any person to engage in the business of a pawnbroker or secondhand dealer within the city limits without first obtaining a permit issued by the Chief of Police. A permit shall be issued to each pawnbroker and secondhand dealer after their application is approved by the Chief of Police and the Department of Justice.

**5.28.040 Application.**

Each pawnbroker and secondhand dealer shall complete an application that will be investigated by the Chief of Police.

**5.28.050 Investigation by Chief of Police.**

The Chief of Police shall cause an investigation to be made of the statements in the application and of the background of the applicant and forward the applicant(s) information and fingerprints to the Department of Justice for review.

**5.28.060 Denial of Permit.**

Upon the Chief of Police's review of the application, the Chief of Police may refuse to issue a permit to the applicant under this Chapter for any of the following reasons:

- (a) The investigation reveals that the applicant falsified information on the application, concealed a material fact or otherwise committed any fraud in the application.
- (b) The applicant has been convicted of a misdemeanor/felony involving an offense against private property interests. Such property offenses include, but are not limited to, larceny, false pretense, fraud, grand theft, embezzlement and receipt of stolen property.
- (c) The applicant has been denied a permit under this Chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the Chief of Police that the reasons for such earlier denial no longer exist.

**5.28.070 Fees.**

The applicant shall pay a Department of Justice investigation fee for review of the applicant(s) fingerprints. The applicant shall also pay a City processing fee as established by resolution.

**5.28.080 Permits Nonassignable.**

No pawnbroker or secondhand dealer permit may be sold, transferred or assigned by the permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be deemed terminated and void.

**5.28.090 Renewal of Permits.**

Pawnbroker and secondhand dealer permit application(s) for submittal to the Department of Justice shall be maintained and renewed every other year from the date of issuance by the City.

**5.28.100 Inspection by Chief of Police.**

All records kept pursuant to this Chapter shall be, at all reasonable times, open to the inspection of the Chief of Police of the City, or designee.

**5.28.110 Prohibition Against Accepting Goods From Specific Individuals.**

No applicant holding a permit under this Chapter, or the applicant's manager, agent or employee shall take or receive any goods, articles or things from any person who is in an intoxicated condition or from any suspected thief or associate of thieves or a suspected or known receiver of stolen property or from any persons reasonably suspected to be contained in any such categories.

**5.28.120 Compliance with Zoning Regulations.**

No person shall operate a pawnbroker and secondhand dealer business without compliance with all applicable zoning regulations.

**5.28.130 Business License Certificate Required.**

No business license certificate shall be issued until investigation by the Chief of Police and Department of Justice is completed and the permit is approved.

**5.28.140 Violation—Penalties.**

Persons who violate a provision of this Chapter or shall fail to comply with any of the requirements thereof shall be guilty of a misdemeanor, subject to punishment in accordance with Chapter 1.12 of the Merced Municipal Code.”

**SECTION 2. EFFECTIVE DATE.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4. PUBLICATION.** The City Clerk is directed to cause a summary of this Ordinance to be published in the official newspaper at least once within fifteen (15) days after its adoption showing the vote thereon.

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The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Merced on the \_\_\_\_ day of \_\_\_\_\_, 2014, and was passed and adopted at a regular meeting of said City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2014, by the following called vote:

**AYES: Council Members:**

**NOES: Council Members:**

**ABSTAIN: Council Members:**

**ABSENT: Council Members:**

**APPROVED:**

\_\_\_\_\_  
**Mayor**

**ATTEST:  
JOHN M. BRAMBLE, CITY CLERK**

**BY:** \_\_\_\_\_  
**Assistant/Deputy City Clerk**

**(SEAL)**

**APPROVED AS TO FORM:**

Ken Royal      3/14/14  
**City Attorney**      **Date**