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APPROVED AS TO FORM AND LEGALITY

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CITY ATTORNEY

ORDINANCE NO. 13136 C.M.S.

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**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE (OMC) CHAPTER 5.46 TO ESTABLISH NEW REGULATIONS FOR SEFCONDHAND JEWELRY DEALERS IN THE FOLLOWING AREAS: (1) PERMITTING; (2) OPERATING STANDARDS; AND (3) REGULATORY ENFORCEMENT ACTIONS.**

**WHEREAS**, the City of Oakland (City) has an overriding interest in plaining and regulating the use of property within the City. Implicit in any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods; and

**WHEREAS**, recently, there has been a proliferation and over-concentration of Secondhand Jewelry Dealer businesses in certain areas of the City; and

**WHEREAS**, permitting the over-concentration of Secondhand Jewelry Dealer businesses may threaten the health, safety and welfare of City residents, visitors, and merchants, because such over-concentration may promote the illegal purchase and/or sales of stolen goods and an increase in thefts, robberies, or assaults for the purpose of stealing jewelry and/or precious metals with the intent of selling such items at a Secondhand Jewelry Dealer businesses; and

**WHEREAS**, the over-concentration of Secondhand Jewelry Dealer businesses may also not be compatible with existing and potential uses of other businesses and may adversely affect the City's ability to attract and retain businesses and shoppers, thereby undermining the City's economic vitality; and

**WHEREAS**, based on 2010 Census estimates, each City Council district has an average of 55,817 residents. Limiting the total number of permitted Secondhand Jewelry Dealers to ten (10) per City Council District would mean that at a maximum, the ratio of Secondhand Jewelry dealer businesses to City residents would on average translate to one (1) per five thousand five hundred and eighty-one (5,581) residents. By limiting the total number of Secondhand Jewelry Dealer businesses per Council District, the City is balancing the demand for and legitimate use of Secondhand Jewelry Dealer businesses with the need to prevent the over-concentration of businesses and the adverse impacts that such an over-concentration may have on the health, safety, and welfare of City residents, visitors, and merchants; and

**WHEREAS**, under Chapter Fotr of the California Business and Professions Code Secondhand Jewelry Dealers businesses (Dealers) are subject to a number of identification, holding, and reporting requirements when purchasing items from the public. These state mandated requirements include the following: (1) that dealers must hold property, including jewelry, which has been purchased or accepted for sale for thirty (30) days (Business and Professions Code Section 21636); (2) that during this 30 day period, such property is subject to inspection by law enforcement persomel (Business and Professions Code Section 21636); (3) that dealers must submit daily reports after the receipt or purchase of jewelry to local police (Business and

Professions Code Section 21628); (4) that such daily reports must include the name and current address of the intended seller of property, a complete description of the property sold, a certification by the intended seller that he or she is the owner of the property or has authority to sell the property, and a legible fingerprint taken from the intended seller (Business and Professions Code Section 21628); and (5) that Dealers must demand an official valid identification of the intended seller issued within five years and containing a photograph or description of the person named; and

**WHEREAS**, pursuant to state law (California Business and Professions Code Section 21638), local governments cannot pass laws imposing identification, holding, and reporting requirements for the sales of secondhand jewelry other than the identification, holding, and reporting requirements as set forth in Sections 21628, 21630, 21633, 21628.2, and 21636 of the California Business and Professions Code, and Section 21208 of the California Financial Code; and

**WHEREAS**, in spite of state law limitations on how local governments can impose identification, holding, and reporting requirements for Secondhand Jewelry Dealers, Business and Professions Code Section 21638 authorizes cities to enact local ordinances regulating the sales of secondhand jewelry so long as such ordinances are not inconsistent with state law; and

**WHEREAS**, the continued expansion of activities, facilities, or establishments buying, exchanging and/or selling secondhand jewelry may result in potential conflict with some of the policies and objectives of the Land Use and Transportation Element of the General Plan.

**WHEREAS**, it is the City's intent, in consideration of other existing and potential uses within the City, to assure a degree of compatibility between other types of businesses and the locations of activities, facilities, or establishments buying, exchanging and/or selling secondhand jewelry; and

**WHEREAS**, the Oakland City Council adopted an updated Land Use and Transportation Element of the Oakland General Plan in March 1998, and also adopted an Estuary Policy Plan in April 1999 to guide future land use and development in the City; and

**WHEREAS**, the Land Use and Transportation Element and the Estuary Policy Plan contain goals, objectives, and policies that promote among other things: maintaining and enhancing the vitality of existing neighborhood commercial areas (Objective I/C1.1 Attracting New Business), Reviewing Potential Nuisance Activities (Policy N1.6), and Environmental Justice (Policy 5.1); and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND** ordain as follows:

**SECTION 1.**

The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through-type; portions of the Municipal Code not cited or not shown in underscoring or strike-through type are not changed).

#### **5.46.010 - Definitions.**

For the 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:

"Automobile wrecking establishment" means and includes any establishment, building or other place where the business is carried on of wrecking old or used automobiles or other motor vehicles, and adding or employing the accessories and parts thereof in equipping, repairing, or rebuilding motor vehicles, or storing, selling, or otherwise disposing of, such accessories or parts.

"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 any 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.

"Pawnbroker" means and includes every person, firm or corporation, 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 or pawn office or engages in or carries on the business of receiving jewelry, precious stones, valuables, firearms, clothing, or personal property, or any other article or articles in pledge for loans or as security, or in pawn for the repayment of moneys, and exacts an interest for such loans.

"Scrap collector" means and includes any person who goes from place to place for the purpose of engaging in or carrying on the business of collecting, buying or selling, either at wholesale or retail, any old rags, bottles, sacks, cans, papers, metals, or any other worn out or discarded material. All such materials are hereinafter referred to as "scrap."

"Scrap dealer" means and includes any person having a fixed place of business and who is engaged in carrying on the business of buying or selling, either at wholesale or retail, any old rags, bottles, sacks, cans, papers, metals, or any other worn out or discarded material. All such materials are hereinafter referred to as "scrap."

"Secondhand automobile or aircraft parts dealer" means and includes any person operating, maintaining or carrying on the business of buying and selling or exchanging secondhand, used, government surplus, salvaged, reclaimed, or renewed automobile, or aircraft parts or accessories.

"Secondhand dealer" means and includes every person who engages in, or conducts the business of buying, selling or exchanging, whether as a separate business or in connection with other businesses, secondhand or rebuilt typewriters, adding and calculating machines, secondhand bicycles, bicycle accessories, motorcycles, motorcycle accessories, scales, clothing, tools, harnesses, surgical, dental or drawing instruments, firearms, pianos or other musical instruments, furniture, household furnishings, books, used and reclaimed army goods, merchandise, or any other secondhand article or articles or things, excepting, however, secondhand jewelry dealers, secondhand automobile or aircraft parts dealers, scrap collectors and secondhand automobile or aircraft parts dealers, scrap collectors and scrap dealers as herein defined, nor shall it pertain to automobile wrecking establishments as herein defined; and provided, further, that nothing in this chapter shall be understood to include as secondhand dealers persons who engage in the business of selling no other secondhand goods or articles than those used and reclaimed, rebuilt or remanufactured, articles or goods

which are purchased by such dealer direct from bona fide wholesale dealers, jobbers or manufacturers, or from distributing agents of the United States Army or Navy.

~~"Secondhand jewelry dealer" means and includes every person who engages in or conducts the business of buying, selling or exchanging old gold, old silver, platinum or articles of platinum, silverware, secondhand jewelry or other precious metals or stones:~~

(Prior code §§ 5-9.01, 5-9.01(a)—5-9.01(f), 5-9.01(i), 5-9.01(j))

#### **5.46.020 - Pawnbrokers—Permits.**

It is unlawful for any person to engage in, or carry on, or conduct, or to permit to be carried on, engaged in or conducted, within the city, the business of any pawnbroker, whether as a separate business or in connection with any other business, or to advertise the same by means of signs or notices on buildings or windows, or by distribution of printed circulars or by public display, or otherwise in any manner whatsoever, unless there exists a valid permit therefore, granted and existing in compliance with the provisions of Chapter 5.02. Both the application for such a permit and the issued permit shall set forth the exact nature of the business to be carried on. In addition, the application shall set forth the requirements specified in Section 5.02.020, and such application shall be accompanied by the signatures of three resident freeholders, certifying to the good moral character and reputation of the person or persons making such application. At the time of filing such application, the applicant and all persons to be directly or indirectly interested in the permit if granted, including all members of any firm or partnership, shall be fingerprinted at the request of the Police Department, and if any such person has been convicted of a felony or any crime involving theft, obtaining money or property by false pretenses, receiving stolen property, extortion, embezzlement, or has violated any provision of this chapter or any other law regulating pawnbrokers, the application for such permit may be denied. Normally, approximately thirty (30) days are required to process the application subsequent to the taking of fingerprints. The investigating official referred to in Section 5.02.030, to whom the application shall be referred, shall be the Chief of Police. In addition to the grounds set forth in Section 5.02.080, any permit may be revoked upon the recommendation of the Chief of Police establishing the fact that such permittee has, or has had, in his or her possession any stolen article without there having been made a record of such article as hereinafter in this chapter provided.

(Prior code § 5-9.02)

#### **5.46.030 - ~~Secondhand jewelry dealers,~~s Secondhand dealers, exchange dealers—Permits.**

It is unlawful for any person to engage in, or carry on or conduct, or to permit to be carried on, engaged in or conducted, within the city, the business of any ~~secondhand jewelry dealer,~~ secondhand dealer, or exchange dealer, whether as a separate business or in connection with any other business, or to advertise the same by means of signs or notices on buildings or windows, or by distribution of printed circulars, or by public display, or otherwise in any manner whatsoever, unless there exists a valid permit therefor, granted and existing in compliance with the provisions of Chapter 5.02. Both the application for such a permit and the issued permit shall set forth the exact nature of the business to be carried on. In addition, the application shall set forth the requirements specified in Section 5.02.020, and such application shall be accompanied by the signatures of three resident freeholders, certifying to the good moral character and reputation of the person or persons making such application. At the time of filing such application, the applicant and all persons to be directly or indirectly interested in the permit if granted, including all members of any firm or partnership, shall be fingerprinted at the request of the Police Department, and if any such person has been

convicted of a felony or any crime involving theft, obtaining money or property by false pretenses, receiving stolen property, extortion, embezzlement, or has violated any provision of this chapter or any other law regulating secondhand dealers, ~~secondhand jewelry dealers,~~ and exchange dealers, the application for such permit may be denied. Normally, approximately thirty (30) days are required to process the application subsequent to the taking of fingerprints. The investigating official referred to in Section 5.02.030, to whom the application shall be referred, shall be the Chief of Police. In addition to the grounds set forth in Section 5.02.080, any permit may be revoked upon the recommendation of the Chief of Police establishing the fact that such permittee has, or has had in his or her possession any stolen article without there having been made a record of such article as hereinafter in this chapter provided.

(Prior code § 5-9.021)

#### 5.46.031 – Secondhand Jewelry Dealers

##### A. Definitions

The following terms are defined for the purpose of interpreting and administering the regulations for Secondhand Jewelry Dealers as provided in this Section only (5.46.031) and are not relevant to other sections of Chapter 5.46:

“Applicant” means a person who has submitted an application for a permit to operate a Secondhand Jewelry Dealer business in the City of Oakland. This includes a person who applies for an initial permit to operate a Secondhand Jewelry Dealer business as well as a person who applies to renew a preexisting permit.

“City Administrator” refers to the City Administrator for the City of Oakland.

“Crime involving Moral Turpitude” means a violation of law that involves any of the following: an intent to defraud, intentional dishonesty for personal gain, intentionally causing a serious injury to another, the sale of narcotics or possession of narcotics with intent to sell, or a sexual offense.

“Deceptive practices” means concealment of the actual facts, operations, business practices, records, or failure to keep and document required records that relate to the sale and purchase of secondhand jewelry or the procurement thereof.

“Operating standards” refers to all regulations in this section (Oakland Municipal Code Section 5.46.031) providing for permissible locations, premises requirements, and compliance and monitoring with local regulations for Secondhand Jewelry dealers.

“Permittee” means a person who has been granted a license, permit, or other document by the City of Oakland to conduct and/or operate a Secondhand Jewelry Dealer business.

“Person” means any natural person, partnership, cooperative association, corporation, Limited Liability Company, personal representative, receiver, trustee, assignee, or any other legal entity.

Precious metals” means gold, platinum, silver and their alloys.

“Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a

business. "

"Secondhand Jewelry Dealer" means and includes every person who engages in or conducts the business of buying, selling or exchanging old gold, old silver, platinum or articles of platinum, silverware, secondhand jewelry or other precious metals or stones. For the purposes of this section, "Secondhand Jewelry Dealer" or "Dealer" may be used interchangeably and shall have the same meaning. A Secondhand Jewelry Dealer does not include a "pawnbroker" as that term defined is defined by either Section 21000 of the Financial Code or Section 5.46.010 of the Oakland Municipal Code.

B. Secondhand Jewelry Dealer Permit

1. It is unlawful for any person to operate a Secondhand Jewelry Dealer business, whether as a separate business or in connection with any business other than a jewelry or precious metals store, or to advertise the same by means of signs or notices on buildings or windows, or by distribution of printed circulars, or by public display, or otherwise in any manner whatsoever, unless the person has a Secondhand Jewelry Dealer permit issued by the City pursuant to Section 5.46.031.

2. A permit to operate a Secondhand Jewelry Dealer business may only be granted upon a determination that an applicant seeking to operate a Secondhand Jewelry Dealer business can meet the following operating standards:

A. Permissible locations and Limits on Permits Issued Per City Council District

No Secondhand Jewelry Dealer business shall be located closer than one thousand (1000) feet to any other Secondhand Jewelry Dealer business. Further, the City Administrator shall issue no more than 10 permits for the operation of a Secondhand Jewelry Dealer business for each City Council District. The geographic and separation restrictions provided in this section (Section 5.46.031.B.2.A) do not apply to Secondhand Jewelry Dealers operating lawfully pursuant to a properly issued permit as of the effective date of this ordinance.

B. Premises where a proposed Secondhand Jewelry Dealer business will be located or where an existing Secondhand Jewelry Dealer business seeking a permit renewal is located shall have the following:

1. Interior and Exterior Surveillance cameras.
  - A. All surveillance cameras shall record to a "DVR" or hard drive device capable of storing, at a minimum, recorded footage for a thirty (30) day time period.
  - B. Exterior Cameras shall monitor the entrance of the premises and exterior perimeter abutting the premises, including any private parking areas adjacent to the premises that customers may use.
  - C. Interior Cameras shall monitor the entire interior public area of the premises.
  - D. An applicant shall consult with the Oakland Police Department to obtain advice and feedback about the proposed plan for camera placement prior to installing any surveillance cameras.
  - E. A permittee shall make surveillance camera recordings available to the Oakland Police Department upon request and within a reasonable amount of time.

2. Warning signs conspicuously placed on exterior walls abutting the premises in block lettering at least two inches tall stating: "YOUR ACTIVITIES ARE BEING RECORDED." The number and exact placement of such signs will be set forth by the conditions of the permit.
3. Storefronts shall have large glass windows and glass doors and no more than ten (10) percent of any window or door area shall be covered by signs, barmers, or opaque coverings of any kind so that law enforcement personnel will have a clear view of the entire public area of the premises from the public sidewalk abutting such premises.
4. Exterior lighting shall be provided on all frontages. Such lighting shall be designed to illuminate persons standing outside such as to allow reasonable identification from (50) feet away. Exterior lighting shall be designed so as not to cast glare offsite. The lighting plan shall be reviewed and approved by the City Administrator, or his or her designee prior to issuing a Secondhand Jewelry Dealer permit.

C. Applications for permits.

1. General requirements.

Applications for Secondhand Jewelry Dealers permits shall include the following information and documentation:

- A. The business name, address, telephone number, and business hours of the proposed Secondhand Jewelry Dealer business.
- B. Name and mailing address of a person authorized by Applicant for City to send communications and notices regarding Secondhand Jewelry Dealer regulations and compliance.
- C. If the proposed location for the Secondhand Jewelry Dealer business will be leased, a copy of the lease and the name and mailing address of the property owner of the lease location.
- D. A brief description of the proposed Secondhand Jewelry Dealer business.
- E. A summary of applicant's prior business activities, financial history and business associations in the ten years prior to filing the application;
- F. The name, address, and job description of the applicant and all persons who will be engaged in the ownership and/or operation of the proposed Secondhand Jewelry Dealer business.
- G. Applicant's written agreement to accept the permit subject to all the terms and provisions of Section 5.46.031, and acknowledging that a permit is a privilege and does not extend or confer any rights or privileges in perpetuity or which run with the land.
- H. Signed statements from three Oakland residents who will vouch for the good moral character and reputation of the Applicant.

2. Business Operations Plan.

Applicants must include a business operations plan describing how the applicant will comply the operating standards provided in Section 5.46.031.B as well as all applicable state laws, including, but not limited to

Sections 21628, 21630, 21633, 21628.2, and 21636 of the California Business and Professions Code, as well as Section 21208 of the California Financial Code.

3. Investigations, Fingerprinting, and Background checks.

A. Investigating Official

The Chief of Police or the designee shall be the "investigating official" in charge of the investigation of the applicant and verification of the information provided in the permit application as deemed relevant and necessary. The investigating official will prepare a written report based on the investigation, and will forward this report along with either a recommendation to deny or grant the permit application, to the City Administrator or his or her designee.

B. Fingerprinting Required

When filing an application, the applicant and all persons who will be involved in ownership and/or operation of the proposed Secondhand Jewelry Dealer business, including all members of any firm or partnership, principals, agents, or employees, shall be fingerprinted at the request of the Police Department. If any such person has been convicted of a crime involving moral turpitude, the application may be denied. Normally, approximately thirty (30) days are required to process the application subsequent to the taking of fingerprints.

C. Background Check: Authorization Required for City's Review of Criminal History information and Financial History Information

The applicant and any others required to be fingerprinted pursuant to Section 5.46.031.C.3 shall authorize the City in writing to obtain information from criminal justice agencies, financial institutions, Federal, State and local agencies, as permitted by law.

D. Supplemental Investigation by City Administrator

The applicant shall also provide other relevant and necessary information for the City Administrator to determine compliance with this Chapter and/or any other applicable section of the Municipal Code or Planning Code.

E. Applicant's Release of Claims and Hold-harmless Agreement

The applicant and any others required to be fingerprinted pursuant to Section 5.46.031.C.3 shall sign a release of claims and hold-harmless agreement to the City for its use of the information provided or discovered during an application investigation.

4. Procedure for filing applications.

Applications for a Secondhand Jewelry Dealer permit shall be filed with the Special Business Permits Division of the City Administrator's Office and shall set forth the information required in Section 5.46.031.C and other such further information as the City Administrator, or her or his designee, may require.

5. Confidentiality.



To the extent permissible by law, the City will keep all information obtained through background checks of the applicant and/or others required to be fingerprinted confidential. Such information will be used for the limited purposes of determining applicant's qualifications for a permit, whether persons required to be fingerprinted have been convicted of a crime of moral turpitude, to verify the information provided in the permit application, and to the assist City in administering the requirements for Secondhand Jewelry Dealers pursuant to this section (5.46.031). The City will not make public such information or disclose it to a third party unless the City is under a legal obligation to disclose such information pursuant to a court order, a valid subpoena, a valid Public Records' Request, or upon the request of a duly authorized government agency. The City does not guarantee confidentiality of any information or documents provided in a permit application or proceeding related thereto.

**D. Notice of Hearing on Application.**

The Special Business Permit Division of the City Administrator's Office shall set a hearing date, not more than sixty (60) days from the date when a complete permit application is filed. After receiving a completed permit application, the Special Business Permit Division shall notify the applicant of the time and place of the application hearing. Such notice shall be given at least thirty (30) days before the date of such hearing. At such hearing all persons interested shall be entitled to file objections, protests, or recommendations regarding the issuance of a Secondhand Jewelry Dealer permit. Such hearing may, by the City Administrator's discretion, be continued to a future date as circumstances may require.

In the event that a public notice of the hearing on any permit application may be required, the Special Business Permit Division shall cause a notice to be published once in the official newspaper of the City at least thirty (30) days before such hearing date, and cause a copy thereof to be posted upon the premises to where the proposed Secondhand Jewelry Dealer business will be located, and a copy on the bulletin board near the City Council Chambers. Such notice shall set forth the fact that such application has been filed, the name of the applicant, the nature of the Secondhand Jewelry Dealer business to be permitted, and the time and place of hearing upon such application.

For applications involving the ongoing use of property, notice of the hearing shall be given by posting notices thereof within three hundred (300) feet of the property involved in the application. Notice of the hearing shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the City within three hundred (300) feet of the property involved and to all addresses within three hundred (300) feet of the property and to registered community groups. All such notices shall be given not less than seventeen (17) days prior to the date set for the hearing. The fee for the notification process, as established by the Master Fee Schedule, shall be a separate charge in addition to the application fee.

**E. Procedure for Hearing on Application.**

Any investigation, inquiry or hearing which the City Administrator has power to undertake or to hold may be undertaken or held by the City Administrator's designee and to whom the matter is assigned. The person to whom a matter is assigned shall be deemed a "Hearing Officer." In any matter so assigned the Hearing Officer conducting the investigation, inquiry or hearing shall report within thirty (30) days after the

conclusion of the investigation, inquiry or hearing his or her findings and recommendations to the City Administrator.

Within sixty (60) days after the filing of the findings and recommendations of the Hearing Officer, the City Administrator shall confirm, adopt, modify or set aside the findings of the Hearing Officer and with or without notice enter his or her order, findings, decision or award based upon the record in the case. In such hearings, investigations, and inquiries by the City Administrator or the Hearing Officer, he or she shall not be bound in the conduct thereof by the common law or statutory rules of evidence and procedure. Inquiry shall be made in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the public parties and carry out justly the spirit and provisions of this chapter.

No informality in any proceeding or the manner of taking testimony shall invalidate any other decision, award or rule made as specified in this chapter. No order, decision, award or rule shall be invalidated because of the admission into the record and the use as any proof of any fact in dispute or any evidence not admissible under the common law or statutory rules of evidence and procedure.

#### F. Action on Permit Application

The City Administrator, or his or her designee, shall not grant a Secondhand Jewelry Dealer permit if it appears that the applicant is not qualified to conduct or maintain the proposed Secondhand Jewelry Dealer business, either for moral, financial, or other relevant reasons. Among the relevant reasons that may be considered, are those factors and criteria set forth as "Grounds for Enforcement Actions" in Section 5.46.031.O.

#### G. Relief from permit requirements and operating standards – Request for Relief

1. Any person who owns or operates, or who has applied to open, expand, modify or establish a Secondhand Jewelry Dealer business which would be affected by the required application permit requirements and operating standards, and who contends that the permit application requirements and operating standards as applied to him or her would be unlawful under Federal, State, or local law or regulation, may submit a written request for relief. For purposes of this section (5.46.031), notice to a predecessor in interest shall constitute actual notice to subsequent owners or operators.

A. A new Secondhand Jewelry Dealer business planning to open in an area of the City where such a business is not allowed, must include its request for relief from requirements and operating standards as part of the application for permit referenced in Section 5.46.031.C.

B. An existing Secondhand Jewelry Dealer business that can not comply with the Operating Standards and which is seeking a renewal shall submit its request for relief along with the permit renewal application materials referenced in Section 5.46.031.S.

2. The Request for Relief must; (1) state the name of requestor and business address; (2) the affected application number; (3) specify how the permit application and/or operating standards as applied to the requestor would be unlawful under Federal, State, or local law(s) or regulation(s); and (4) include all appropriate legal and factual support for the request for relief

3. Decision on Request for Relief. Within thirty (30) days of receipt of the completed request for relief, the City Administrator, or his or her designee, shall mail to the requestor a written determination in

response to the request for relief from operating standards.

3. Appeal of Request for Relief: The requestor may appeal such determination pursuant to the appeals process outlined in Oakland Municipal Code Section 5.02.100.
4. Failure to timely submit the Request for Relief or failure to raise each and every issue that is contested, along with all the arguments and evidence which supports the basis of the Request for Relief, will preclude the requestor from raising such issues during the appeal and/or in court.

#### H. Changes and modifications to permits: prior approval required

I. Prior approval must be obtained for a Secondhand Jewelry Dealer permittee to do any of the following:

A. Convey, give, or otherwise transfer the permit to another person.

B. Transfer any ownership interest or voting control in a Secondhand Jewelry Dealer business to another person;

C. Expand the permitted business operations in terms of inventory or physical space of premises by more than twenty (20) percent;

D. Change the location of a permit;

E. Change the name of the business operating under the permit.

2. The City Administrator or his or her designee may deny the types of changes specified in Section 5.46.031.H.1 for good cause, which includes, but is not limited to, the criteria and factors set forth as "Grounds for Enforcement Actions" in Section 5.46.031.O.1.

3. Transfer of ownership or control—Financial encumbrance.

In addition to the requirement to obtain prior approval as provided in Section 5.46.031.H.1., each permittee must notify the City Administrator or her or his designee at least thirty days prior to transferring an ownership interest equal to or greater than ten percent of the entire ownership in the Secondhand Jewelry Dealer business.

#### L Compliance with Local and State law requirements

Cooperation with Compliance Investigations.

Upon written request and within a reasonable amount of time, the applicant shall provide all relevant and necessary information to the City Administrator or his or her designee for evaluation as to whether permittee is in compliance with Section 5.46.031, and/or other applicable City or state regulations.

#### J. Inspections

The Oakland Police Department, or its designee shall be permitted to enter and inspect the premises where a Secondhand Jewelry Dealer is permitted to operate, in a reasonable manner and during regular business hours.

**K. Permit and Business Tax Certificate to be exhibited**

1. Permit. Business and establishments operating under a permit must exhibit the permit in accordance with the requirements of Oakland Municipal Code Section 5.02.120.
2. Business Tax Certificate. The permittee shall post a copy of the business tax certificate in a conspicuous place on the premises which is open to the public. The business tax certificate shall contain the information required by Oakland Municipal Code Section 5.04.070.

**L. Expiration of permit**

The permit expiration provisions of Oakland Municipal Code Section 5.02.150 apply to Secondhand Jewelry Dealers permits.

**M. Fees**

All required fees are payable to City as set forth in the Master Fee Schedule for any permit issued or renewed. An application and permit fee and a fee for inspections, investigations and enforcement actions shall also be payable to City as set forth in the Master Fee Schedule. All fees required for the processing of a permit application are due at the time the application is submitted.

**N. Violations**

1. Enforcement

The City Administrator shall have power to adopt rules of procedure and regulations not inconsistent with the provisions of this chapter for the purpose of carrying out the provisions of Section 5.46.031; and a copy of such rules of procedure and regulations shall be on file and available for public examination at the Oakland Police Department.

All officials, departments, and employees of the city vested with the authority to issue permits, certificates, or permits shall adhere to, and require conformance with Section 5.46.031.

2. Forms of Enforcement Actions

An enforcement action may take the form of a denial of a permit or permit renewal, permit revocation or suspension, emergency order, imposition of new conditions, civil fines, criminal actions as infractions and/or misdemeanors, or any combination thereof.

3. Permittee Liable for Acts of principals, agents, and employees

A permittee under shall be subject to disciplinary action not only for his or her own acts or omissions in violation of Section 5.46.031, but also for the acts or omissions of principals, agents, or employees.

**O. Grounds for Enforcement Actions and Procedure for Enforcement Actions**

1. Grounds for Enforcement Actions

The City may take enforcement actions when a Permittee or Applicant, or the principal, agent, or employee of such Permittee or Applicant who is engaged in the ownership and/or operation of the proposed or existing Secondhand Jewelry Dealer business, has committed any of the following acts or omissions or meets any of the following criteria:

- A. Intentionally misrepresented information in a application for Secondhand Jewelry Dealer permit or renewal of such permit;
- B. Failed to comply with building, fire, electrical, zoning, plumbing, or health regulations in respect to the premises where the Secondhand Jewelry Dealer business is located or is to be located;
- C. Has been convicted of a crime involving moral turpitude or deceptive practices;
- D. Fails to meet any requirement imposed by this Chapter or any other applicable City ordinance;
- E. Is or has engaged in a business, trade, or profession without a valid City permit, when such person should reasonably have known that such a permit was required;
- F. When credible evidence exists that the person is dishonest;
- G. The Secondhand Jewelry Dealer business promotes, causes, allows, fosters, aids, or otherwise enables a nuisance, whether private or public;
- H. Failure to cooperate with the City's efforts to enforce the provisions of this Code;
- I. For the sole purpose of considering whether a denial of a permit or permit renewal is warranted, the Secondhand Jewelry Dealer business has demonstrated a pattern of conduct of violating any state law contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of the California Business and Professions Code.

## 2. Notice and Hearing of Enforcement Action

The City Administrator or his or her designee, in his or her discretion, may take enforcement action in response to the grounds set forth under Section 5.46.031.O.2. Such enforcement action requires a due process hearing on the merits of the proposed disciplinary action. A notice shall be sent to the permittee informing him or her of the intent to take disciplinary action, the proposed remedy, and the date, time, and location of the due process hearing.

A hearing to show cause must be held within 60 business days from the date of the notice of intent to take disciplinary action, unless the parties and or the independent hearing officer have agreed in writing to waive such hearing or grant a longer period of time prior to conducting the hearing.

### P. Special Enforcement Action: Emergency Order Revocation, suspension, and imposition of permit conditions

#### 1. Police Chief s Emergency Order; Suspension, Special conditions, and Revocation.

Consistent with the noticing, hearing and procedural provisions outlined in this section (5.46.031.P.1), the Chief of Police or his or her designee may issue an Emergency Order. Such an Emergency Order may require the suspension and/or imposition of special conditions on a permit, or revocation of a permit. Such

an Emergency Order shall be in addition to any other penalty or condition authorized by law. If an Emergency Order is issued, any certificate issued in connection with the permit shall be surrendered to the City Administrator.

A. Grounds for Emergency Suspension of Permit and/or Imposition Special Permit Conditions. The Chief of Police may issue an emergency order which suspends and/or places special conditions on a permit upon a determination by the Chief of Police that: (1) there has been a violation of any provisions of Section 5.46.031; and (2) such an order is necessary for the immediate preservation of the public peace, health, safety, morals, or general welfare within the City.

B. Grounds for Emergency Revocation of Permit. Any permit may be revoked upon the recommendation and determination of the Chief of Police that a permittee has demonstrated a pattern of conduct of violating any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of the California Business and Professions Code.

C. Content requirements for any Emergency Order. Any emergency order issued pursuant to Section 5.46.031.P. shall: (1) set forth the grounds upon which it is issued, including a statement of facts describing the emergency which necessitates such order, (2) stating the time and place where the hearing on the emergency order will be held, and (3) shall be effective immediately upon the issuance and service thereof on the permittee or permittee's representative, or upon the posting thereof upon the permitted premises, and (4) indicate the period of time for which it is effective, which shall be based upon the severity of the violation and the nature of the emergency as determined by the Chief of Police.

D. Hearing on the Emergency Order. Such Emergency Order shall be subject to a due process hearing on the merits of the revocation, suspension, and/or imposition of special conditions. The due hearing must be held before an Independent Hearing Officer five days after the issuance of the notice of the Emergency Order.

O. Criminal Violations, Civil Violations, Penalties, Cost of Enforcement, Remedies Cumulative.

I. Criminal violations:

A. Infractions. Any person who violates, causes, or permits another person to violate any provision of Section 5.46.031 is guilty of an infraction unless otherwise provided.

B. Separate offenses for each day. Any violator shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, permitted, or caused by such violator.

C. Public Nuisance. In addition to the penalties provided in this section, any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall and is declared to be a public nuisance and may be summarily abated as such by the City.

D. Penalties. Any person convicted of an infraction under the provisions of this section shall be punishable by a fine to the maximum permitted under Oakland Municipal Code Chapter 1.28. Any violation beyond the second conviction within a one-year period may be charged as a misdemeanor, and the penalty for conviction shall be punishable by a fine or imprisonment to the maximum permitted under Oakland Municipal Code Chapter 1.28 and/or California law.

E. Liability for expenses. In addition to the punishment provided by law, a violator is liable for such costs, expenses, and disbursements paid or incurred by the city or any of its contractors in correction, abatement, and prosecution of the violation.

2. Civil Violations and Penalties.

A. Civil penalties. Any person found liable for violating any provision of this chapter shall be liable for a \$1,000 fine.

B. Separate offenses for each day. Any violator shall be liable of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, permitted, or caused by such violator.

C. Injunction. Any violation of any provision of this chapter shall be and is declared to be contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief

3. Liability for cost of enforcement and legal expenses incurred by City

A. Cost of Enforcement. In addition to the civil and criminal penalty provisions provided by this chapter, a violator is liable for such costs, expenses, and disbursements paid or incurred by the City or any of its contractors in the investigation, correction, and abatement of the violation.

B. Legal Expenses. The City may also impose against a permittee the administrative and legal costs incurred in the disciplinary action such as attorney's fees, expert witness or consultant fees, City Attorney time, staff time, expenses or costs.

4. Remedies cumulative. The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the City.

R. Liability, indemnity and hold harmless

1. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive any applicable immunities, with respect to the Secondhand Jewelry Dealers permitting and operational standards established herein, or for the activities of any Secondhand Jewelry Dealer.
2. To the maximum extent permitted by law, a permittee shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, and City agents, officers, and employees (hereafter collectively called City) from any liability (including legal costs, attorneys' fees, expert witness and consultant fees, City Attorney or staff time, expenses or costs), damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding brought against the City in connection with City's decisions, application and implementation of Section 5.46.031 and/or other applicable City or state regulations. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

3. Within ten (10) calendar days of the filing of any Action as specified in Section 5.46.031.R.2 above, the Permittee shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the Permittee of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

## S. Renewal and Expiration of Permit

### 1. Application requirements for renewal of Permit.

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

A. 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 permit has not expired.

B. 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 his or her permit and submit the permit fees no later than thirty (30) days prior to expiration of the permit term.

C. A declaration signed under oath that the applicant has, within the last month prior to applying to renew a Secandhand Jewelry Dealer permit, carefully reviewed the state law holding, reporting, and reporting requirements for tangible personal property as referenced in Section 5.46.031.C.2.

2. 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 5.46.031.S.A, the proprietor must:

A. Submit the permit fee plus a reinstatement fee of ten percent (10%) of the permit fee.

B. Submit a signed declaration affirming that the proprietor has not sold and will not sell any merchandise regulated by the provisions of Section 5.46.031 after the permit expiration date and before the permit is renewed.

### 3. Action on Permit Renewal Application

The procedure in Section 5.46.031.F. sets forth how the City Administrator or his or her designee takes action on a Permit Renewal Application.

## T. Hearings

The provisions of Oakland Municipal Code Section 5.02.090 apply to all hearings on applications and reviews of Secondhand Jewelry Dealer permits, except when stated otherwise in Section 5.46.031.

## U. Appeals

The provisions of Section 5.02.100 apply to all appeals pertaining to the denial, suspension, imposition of conditions or revocation of Secondhand Jewelry Dealer permits, except when stated otherwise in Section 5.46.031.



**5.46.040 - No permit to minor.**

No permit shall be issued for any business enumerated in Section 5.46.020 or 5.46.030 if the applicant therefor is under eighteen (18) years of age, nor if the applicant is a firm, partnership or corporation, if any member of such firm or partnership is under eighteen (18) years of age.

(Prior code § 5-9.022)

**5.46.050 - Record of transactions.**

Every person managing, maintaining or conducting the business of any pawnbrokersecondhand-jewelry dealer, secondhand dealer or exchange dealer, in the city shall keep, or cause to be kept, at the store or place of business, a well-bound book containing a record in which shall be legibly entered in the English language, in ink, at the time of every purchase, sale, exchange, pledge, pawn, or other transfer of possession of any article, or loan thereon, 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 and description of the person receiving, delivering or transferring the property or who is otherwise dealt with, the amount of money paid or received in such transaction, and the rate of interest, if any, and the date and hour of the transaction.

**5.46.060 - Inspections and reports.**

The record of transactions required by the provisions contained within Section 5.46.050 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 Chief of Police, or his or her designated representative, each day excepting holidays, a copy of said record of transactions.

Any alteration of any copies of transaction as set out in Section 5.46.050 shall be unlawful.

It is unlawful for any pawnbroker, secondhand dealer, jewelry dealer, or exchange dealer 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 5.46.050.

(Prior code § 5-9.04)

**5.46.070 - 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, secondhand dealer under any fictitious or assumed name or address or under any name other than his or her true name and address.

(Prior code § 5-9.041)

**5.46.080 - Suspension or revocation of permit for violation of Section 5.46.070.**

In addition to the grounds set forth elsewhere in this Chapter, the City ~~Manager~~ Administrator, upon the written recommendation therefor by the Chief of Police, may, under the provisions of Chapter 5.02, suspend or revoke a pawnbroker's, ~~secondhand-jewelry-dealer's~~, secondhand dealer's or exchange dealer's permit upon conviction of said permittee of violating the provisions of Section 5.46.070.

(Prior code § 5-9.042)

**5.46.090 - ~~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, ~~secondhand-jewelry-dealer~~, secondhand dealer or exchange dealer, or the 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, excluding computers and other electronic devices, need not be held for more than five days pursuant to the provisions of this section.

(Prior code § 5-9.05)

**5.46.100 - ~~Hold-order.~~**

The Police Department may place a hold-order upon property acquired by a pawnbroker, ~~secondhand jewelry-dealer~~, secondhand dealer or exchange 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.

(Prior code § 5-9.051)

**5.46.110 - Purchase from minors and servants.**

It is unlawful for any person maintaining or conducting the business of any pawnbroker, ~~or-secondhand jewelry-dealer~~, or exchange 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.

(Ord. 11931 § I, 1996: prior code § 5-9.06)

**5.46.120 - Declaration of legal status.**

It is unlawful for any person maintaining or conducting the business of pawnbroker, or exchange dealer or any agent or employee thereof to purchase or take any goods or articles or things offered to him or her by any person under the age of eighteen (**18**) years who claims legal status as an emancipated minor pursuant to

Family Code Section 7002, unless such person shall have executed and delivered to said pawnbroker, secondhand dealer, exchange dealer or any agent or employee thereof a certificate substantially as follows:

**Declaration of Legal Status**

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 Oakland, California

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

(Ord. 11931 § 2, 1996: prior code § 5-9.061)

**5.46.130 - Hours.**

It is unlawful for any person conducting or maintaining the business of pawnbroker, secondhand dealer, secondhand-jewelry-dealer, or exchange dealer, or any agent or employee thereof, to keep or cause to be kept, such place of business open on the first day of January, the thirtieth day of May, the fourth day of July, the twenty-fifth day of December, of each year, or on any other day except between the hours of seven a.m. and seven p.m.; provided, however, that on Saturdays and days preceding the aforesaid holidays, such business may be kept open until eleven p.m.

Any person engaged in conducting any business other than those hereinabove mentioned 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.

(Prior code § 5-9.07)

**5.46.140 - Secondhand automobile dealers, secondhand automobile parts dealers, and automobile wreckers and wrecking establishments—Records and reports.**

Every person operating, maintaining or carrying on, the business of a secondhand automobile dealer, secondhand automobile parts dealer, or an automobile wrecking establishment shall keep, or cause to be kept, a record of the purchase, sale, exchange or storage of any automobile, or part thereof or accessory thereto, which record shall at all times be open to the inspection of the Chief of Police, or any officer detailed by him or her, and such person shall, as often as the Chief of Police shall direct, make out and deliver to him or her, on a blank form to be furnished by the Chief of Police, a full and complete report of the purpose, sale, exchange, storage or other transaction of such property. The said report shall contain the name of the person from whom purchased, the make, state license number, motor number, body number, style and seating capacity of all secondhand automobiles purchased, sold, exchanged or placed in storage; the make, size and number of secondhand automobile tires; and the make and number of every secondhand automobile part or accessory so purchased, sold, exchanged or otherwise dealt with, together with such other information concerning said property as may be necessary to prove ownership or identity of such

second-hand automobiles or automobile parts and accessories. A violation of any provision of this section shall be a misdemeanor, and it shall further be unlawful for any such person engaged in any such business to dispose of any secondhand automobile or part thereof or accessory thereto, until a report has been made concerning the purchase, sale or exchange of said property to the Chief of Police and he or she, or an officer detailed by him or her, shall have had an opportunity of inspecting the same.

Provided, the foregoing provisions of this section are not intended to require the keeping of records and the making of reports of parts of any vehicle acquired for the purpose of wrecking or dismantling the acquisition of which must be reported to the Department of Motor Vehicles and to the local Police Department under the provisions of Section 11520 of the Vehicle Code of the state of California.

Provided further, every automobile wrecker permitted as such who obtains actual possession of a vehicle subject to registration pursuant to the California Vehicle Code for the purpose of wrecking or dismantling the same, shall within twenty-four (24) hours after the acquisition of such vehicle notify the Chief of Police of such acquisition. Said notice shall be a copy of the form prescribed for such purpose by the Division of Registration of the Department of Motor Vehicles of the state of California, and shall contain information required by said Department and as authorized by Section 11520 of the Vehicle Code of the state of California.

(Prior code § 5-9.09)

**5.46.150 - Storage of secondhand building material—Permit.**

It is unlawful for any person to establish or maintain, or to cause or be established or maintained, any yard, place or premises for the storage of secondhand building material unless there exists a valid permit therefor, granted and existing in compliance with the provisions of Chapter 5.02. The investigating official referred to in Section 5.02.030, to whom the application shall be referred, shall be the Fire Marshal.

(Prior code § 5-9.11)

**5.46.160 - Storage of secondhand building material—Regulation.**

It is unlawful for any person to establish or maintain, or cause to be established or maintained, any yard, place or premises for the storage of secondhand building material unless the same be continuously equipped with one and one-half inch hose reel and one two and one-half gallon fire extinguisher, both in working condition, for each eight thousand (8,000) square feet of area of such premises or fraction thereof. All building material in such yards and premises shall be placed in piles, with aisles at least three feet in width between such piles.

(Prior code § 5-9.12)

**5.46.170 - Scrap dealers and scrap collectors—Permits.**

It is unlawful for any person to engage in or carry on or conduct, or to permit to be carried on, engaged in, or conducted, within the city, the business of a scrap collector or a scrap dealer as defined in Section 5.46.010 unless there exists a valid permit therefor, granted and existing in compliance with the provisions of Chapter 5.02. The investigating official referred to in Section 5.02.030, to whom the application shall be referred, shall be the Chief of Police. This section shall not apply to the collecting, buying, or selling of aluminum cans for the sole purpose of recycling.

(Prior code § 5-9.13)

**5.46.180 - Scrap dealers and scrap collector's application.**

No permit shall be granted to a scrap dealer or to a scrap collector, as provided in Section 5.46.170, unless the application for a permit is accompanied by the signatures and addresses of three resident freeholders certifying to the good moral character and reputation of the person making such application. At the time of filing such application, the applicant and all persons to be directly or indirectly interested in the business if the permit is granted, shall be fingerprinted at the request of the Oakland Police Department, and if any such person has been convicted of a felony or any crime involving theft, obtaining money or property by false pretenses, receiving stolen property, extortion, embezzlement, or has violated any provision of this chapter, or any law regulating scrap or secondhand personal property, the application for such permit may be denied. Normally, approximately thirty (30) days are required to process the application subsequent to the taking of fingerprints.

(Prior code § 5-9.131)

**5.46.190 - Scrap dealers and scrap collectors—Records.**

Every person engaged in, carrying on, or conducting, the business of scrap dealer or scrap collector referred to in Section 5.46.170 shall keep, or cause to be kept, at such place of business a substantial well-bound book, and shall promptly enter therein an exact description of all personal property purchased by him or her, the date of purchase, the name and residence or place of business of the person from whom purchased, and all particular and prominent marks of identification that may be found on such property; said book shall be kept neat and clean, and all notes made therein shall be neatly and legibly written in ink and in the English language, and such book shall at all times during the ordinary hours of business, be open to the inspection of the Chief of Police or any officer designated by the Chief of Police.

(Prior code § 5-9.14)

**5.46.200 - Scrap dealer's records.**

In addition to the records required in Section 5.46.190, a scrap dealer shall require, and it shall be the duty of the person selling any article to such dealer to sign his or her true name in the book required to be kept by the above-mentioned section, opposite the description of the property sold by such person to such dealer. If the person selling such personal property is a permitted scrap collector in the city, such person shall, and it shall be the duty of such dealer to require such person to, affix after his or her signature the number of his or her scrap collector's permit. The person selling any personal property to a scrap dealer shall affix after his or her signature, as herein required, the number of the current permit plates issued by the Department of Motor Vehicles of the state of California for the vehicle operated by such person, in which the property sold was transported, and it shall be the duty of the scrap dealer to verify the truthfulness of the number entered.

(Prior code § 5-9.141)

**5.46.210 - Scrap dealers and scrap collectors—Regulations.**

It is unlawful for any scrap dealer to dispose of any scrap until at least five days have elapsed since he or she took possession of same; or to receive any personal property by way of a pledge or pawn, or to engage in the business of a pawnbroker on the same premises wherein the business of such scrap dealer is located; or for

any scrap collector or scrap dealer to purchase, collect or acquire any property, or to keep, or cause to be kept, such place of business open on any Sunday or on the first day of January, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December, or upon any day appointed by the President of the United States or by the Governor of this state for a public fast, thanksgiving or holiday, or at any time except between the hours of eight-thirty a.m. and six p.m.

It is unlawful to store or keep any bones, or refuse food stuff, or any scrap intermingled with food materials or particles thereof, which may attract rats, mice or like rodents or serve as food for them, or to permit such materials to accumulate on the premises of any scrap dealer or scrap collector, or in any scrap yard, junk yard or junk shop whatsoever, except such bones or other materials may be stored in a covered bin of metal, concrete, tile or other solid or impervious substance so constructed as to be entirely ratproof.

(Prior code § 5-9.15)

**5.46.220 - Pawnbroker's receipt books.**

Every person managing, maintaining or conducting the business of a pawnbroker in the city 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 5.46.050, 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. 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." One of the aforesaid books shall be kept for the recording of, and the receipting for, pledges, 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 pledge and not a sale."

(Prior code § 5-9.27)

**5.46.230 - Pawnbrokers' customer receipts.**

It is unlawful for pawnbrokers to make any purchase, exchange, pledge, pawn or other transfer of possession of any article, unless the same is recorded in one of the record and receipt books required by the provisions of Section 5.46.220, 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 Oakland Police Department. Any alteration of such duplicate sheet shall constitute a misdemeanor.

(Prior code § 5-9.28)

**SECTION 2.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining

portions of this ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

**SECTION 3.**

This ordinance shall be effective upon approval by the Council of the City of Oakland.

OCT 16 2012

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2012

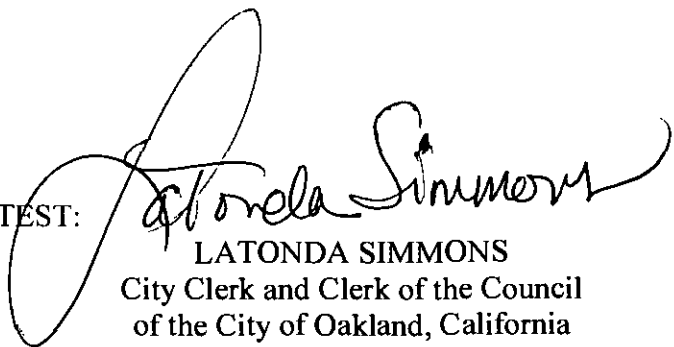
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, SCHAAF, NADEL,  
BRUNNER AND PRESIDENT REID = 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Date of Attestation: November 1, 2012





2012 SEP 13 PM 4: 04

**AN ORDINANCE AMENDING OAKLAND MUNICIPAL CODE (OMC) CHAPTER 5.46 TO ESTABLISH NEW REGULATIONS FOR SECONDHAND JEWELRY DEALERS IN THE FOLLOWING AREAS: (1) PERMITTING; (2) OPERATING STANDARDS; AND (3) REGULATORY ENFORCEMENT ACTIONS.**

This ordinance will amend Oakland Municipal Code Chapter 5.46 to make several new regulatory measures for Secondhand Jewelry Dealer in the permitting process, establish new geographic restrictions, premises requirements, and other operating standards, as well as establish a system of enforcement measures to allow the City to ensure that Secondhand Jewelry Dealers are operating lawfully. The meeting will take place at the first time of the reading of the proposed ordinance by the City Council, on October 2, 2012, at 6:30 pm or as soon as practically possible thereafter.