

EXHIBIT “A”

Chapter 5.90

PAWNSHOPS AND SECONDHAND DEALERS

Sections:

- 5.90.010 Findings and Purpose.**
- 5.90.020 Definitions.**
- 5.90.030 City Business Tax Certificate Required.**
- 5.90.040 State Business License Required.**
- 5.90.050 Minor Condition Use Permit Required.**
- 5.90.060 Pawnshop and Secondhand Dealer Establishment Permit Required.**
- 5.90.070 Refusal to Issue a Pawnshop or Secondhand Dealer Establishment Permit.**
- 5.90.080 Display of Licenses.**
- 5.90.090 Holding, Reporting, and Identification Requirements for Pawnshops, Pawnbrokers, and Secondhand Dealers.**
- 5.90.100 Bond.**
- 5.90.110 Report of Stolen Goods.**
- 5.90.120 Violation and Penalty.**
- 5.90.130 Revocation of Pawnshop or Secondhand Dealer Establishment Permit.**
- 5.90.140 Appeal.**
- 5.90.150 Establishment Permit Land Use.**
- 5.90.160 Severability.**

Section 5.90.010 Findings and Purpose.

A. The purpose and intent of this chapter is to protect public health, safety, and general welfare of the residents of the City of Riverside. This chapter is intended to mitigate theft crimes in the City of Riverside by curtailing the dissemination of stolen property and facilitating the recovery of stolen property through the local regulation of businesses engaged in the buying, selling, trading, auctioning, or taking in pawn of tangible personal property.

B. This article is enacted pursuant to Business and Professions Code sections 21638 et seq. This article shall not be construed to require any act or omission which is expressly prohibited or prohibit any act or omission which is expressly required by Business and Professions Code sections 21625-21647.

Section 5.90.020 Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. “Pawnbroker” shall have the same meaning as in California Financial Code section 21000.

B. “Secondhand Dealer” shall have the same definition as in California Business and Professions Code section 21626.

C. “Pawnshop” means any room, store, building, or other place in which pawn-broking and secondhand dealing business is engaged in, carried on, or conducted, including automated pawn operations conducted at EcoATM Machines and other similar kiosk-type devices, as defined in RMC 9.70.010.

D. “Second Hand Dealer Operation” means any room, store, building, or other place in which a secondhand dealing business is engaged in, carried on, or conducted, including automated secondhand dealer operations conducted at EcoATM Machines and other similar kiosk-type devices, as defined in RMC 9.70.010.

E. “EcoATM Machines and other similar kiosk-type devices” means machines that allow people to sell their personal electronic devices in exchange for immediate cash, store credit, or charitable donation by an automated means. Those devices are secondhand dealer operations under the provisions of California Business and Professions Code section 21626(a), and are additionally subject to the provisions of Chapter 9.70 of this Code.

Section 5.90.030 City Business Tax Certificate Required.

It is unlawful for any person to operate or conduct the business of a pawnshop or secondhand dealer, unless a valid, unexpired, and unrevoked business tax certificate is issued pursuant to Chapter 5.04 of this Code.

Section 5.90.040 State Business License Required.

A. Any person engaging in the business of secondhand dealing, must comply with Business and Professions Code section 21640 et seq., and obtain and maintain a valid State license from the Department of Justice.

B. Any person engaging in the business of pawn-broking, must comply with Financial Code section 21300 et seq., and obtain and maintain a valid State license from the Department of Justice.

Section 5.90.050 Minor Conditional Use Permit Required.

Any person engaging in the business of pawn-broking or secondhand dealing must comply with Chapter 19.355 of this Code.

Section 5.90.060 Pawnshop and Secondhand Dealer Establishment Permit Required.

A. No person shall own, operate, or manage any Pawnshop Establishment in any location within the City without first having obtained a Pawnshop Business Establishment permit from the Chief of Police. No person shall own, operate, or manage any Secondhand Dealer Establishment in any location within the City without first having obtained a Secondhand Dealer Establishment permit from the Chief of Police.

B. Any person desiring to own or operate a Pawnshop Establishment or Secondhand Dealer Establishment must first obtain the licenses, certificates, and permits described in sections

5.90.030, 5.90.040, and 5.90.050 in order to obtain a pawnshop business establishment permit from the Chief of Police.

C. The person(s) must file, under penalty of perjury, a written application on forms provided by and submitted to the Chief of Police. Fee amounts for the application may be established by resolution of the City Council.

D. The application shall be completed and signed by the owner of the proposed Pawnshop or Secondhand Dealer Establishment, if a sole proprietorship; one general partner, if the owner is a partnership; or two officers, if the owner is a corporation. The application shall be deemed complete if it contains or is accompanied by the following information:

1. A description of the type of ownership of the business (i.e., whether by individual, partnership, corporation, or otherwise). If the applicant is a corporation, the application shall include the names and residence addresses of each of its current officers and directors. An applicant corporation or partnership shall list the names and residence addresses of each of its officers or partners.
2. A detailed description of all services to be provided at the Pawnshop or Secondhand Dealer Establishment.
3. The proposed business name.
4. The complete address and all telephone numbers of the business.
5. A complete list of the names and residence addresses of all proposed employees or volunteers with a description of the job duties and functions of each. In the event of corporation ownership, the applicant must also include the name and residence addresses of the responsible employee to be principally in charge of the day-to-day operations of the business.
6. Possess original valid licenses, permits, and certificates for the business described in 5.90.030, 5.90.040, and 5.90.050.
7. A description of any other business owned or operated by the applicant(s) within the State of California.
8. The following personal information concerning every owner:
 - a. Full complete name and all aliases used;
 - b. Current residence address and residential addresses for five (5) years immediately preceding the present address, and the inclusive dates for each such address;
 - c. The complete business, occupation, and employment history for five (5) years preceding the date of application including, but not limited to,

pawnshops, pawn-broking, or secondhand dealing and similar business history and experience;

- d. The complete permit history including, but not limited to, pawn-broking, secondhand dealing, or similar businesses; whether such person has ever had any permit or license issued by any agency, board, city, county, territory, or state; the date of issuance; whether the permit or license was denied, revoked, or suspended;
 - e. A complete set of the applicant's fingerprints submitted through the Livescan system. The applicant shall be responsible for payment of any fingerprinting fee.
 - f. Date of birth and original documentation to verify both the applicant's identity and employment authorization (if applicable), as listed under 8 USC Section 1324a(b)(1) and 8. C.F.R. Section 247a(b)(1);
 - g. All criminal conviction, including pleas of nolo contendere, within the last ten (10) years, including those dismissed pursuant to Penal Code Section 1203.4, and the date and place of each such conviction and reason and sentence thereof; and
 - h. All pending criminal charges for which the applicant is currently out of custody on bail or on his/her own recognizance.
- 9. The name and address of the owner or lessor of the real property upon or in which the business is to be conducted. If the applicant is not the property, the application must be accompanied by an acknowledgement from the property owner that a Pawnbroker or Secondhand Dealer establishment will be located on the property.
 - 10. The name and address of any pawnbroker or secondhand dealer establishment or other business wherein pawn-broking or secondhand dealing is owned or operated by any applicant.
 - 11. Such other identification and information as the Chief of Police may require to verify the truth of the matters set forth in the application.
 - 12. A statement in writing and dated by the applicant certifying under penalty of perjury that all information contained in the application is true and correct.
- E. Each permit issued under this section shall expire one year from the date of issuance.
- F. An unrevoked permit may be renewed for one year by filing, under penalty of perjury, a written application on forms provided by and submitted to the Chief of Police. The renewal fees accompanied with the application may be established by resolution of the City Council.

G. A business establishment permit required under this section shall be in addition to any license, permit, or fee required under any other Chapter of this Code.

H. A permit holder shall notify the Chief of Police whenever there is a change in information that was required to be submitted in the application. Such notification shall be in writing and made within ten (10) business days of the change.

I. The Chief of Police shall complete an investigation of the qualifications and moral character of the applicant and either grant or deny the permit within ninety (90) days after the submission of the completed application; provided, however, if good cause exists, the Chief of Police may extend the period of investigation for an additional thirty (30) days, provided the applicant is mailed notification or verbally notified that the investigation has not been completed.

Section 5.90.070 Refusal to Issue a Pawnshop or Secondhand Dealer Establishment Permit.

A. The Chief of Police shall not issue or allow a transfer of a business permit pursuant to this Chapter to an applicant under any of the following conditions:

1. The applicant fails to or refuses to furnish the information or documents required by this Chapter or submits false, misleading, or incomplete information on the application;
2. The business does not comply with the minimum requirements sets forth in the Chapter or with the City's code, building, fire, health, and zoning regulations;
3. The operation of the business will not comport with the peace, health, safety, convenience, good morals, and general welfare of the public;
4. The applicant has been convicted of any of the following offenses, unless the Chief of Police finds the offense was so remote in time and that the applicant has been rehabilitated:
 - a. A crime involving dishonesty, fraud, deceit, or moral turpitude;
 - b. A felony committed while engaged in the ownership or operation of a Pawnshop or Secondhand Dealer business;
 - c. Any crime involving conduct reasonably related to the occupation being regulated where that crime demonstrates a pattern of conduct;
 - d. Attempt to commit or conspiracy to commit any of the above mentioned offenses; or
 - e. Any crime in any other state or jurisdiction which is equivalent of or substantially similar to any of the above mentioned offenses.

5. The applicant has had a pawnbroker or secondhand dealer establishment permit or license denied, suspended, or revoked, for cause, by any city, county, state, local agency, or other licensing authority, or has had to surrender a permit or license as a result of pending criminal charges or in lieu of said permit or license being suspended or revoked.
6. The Property has had a prior revocation of a pawnbroker or secondhand dealer establishment permit, or a state license, where the applicant has a current or prior personal or business relationship with the prior permittee/licensee, or the Property Owner was associated with criminal activity related to pawn-broking or secondhand dealing activity.

B. Denial of a pawnbroker or secondhand dealer establishment permit shall be given to the applicant in writing and shall specify the grounds for such denial. Notice of the denial shall be deemed to have been served upon personal service or when deposited in the United States Mail with postage prepaid and addresses to the applicant at the address listed on the application. Such refusal to issue a permit may be appealed to the City Council's Public Safety Committee pursuant to Section 5.90.150 of this Chapter.

Section 5.90.080 Display of Licenses.

A. Every Pawnshop and Secondhand Dealer Establishment shall:

1. Display the original certified state license to operate as a pawnbroker or secondhand dealer within the State of California in an open and conspicuous location;
2. Display the original valid business tax certificate issued to the pawnshop or secondhand dealer establishment owner in an open and conspicuous location;
3. Display the original valid Minor Conditional Use Permit issued by the City allowing a pawnshop or secondhand dealer establishment to operate a business within the City in an open and conspicuous location;
4. Display the original valid pawnshop or secondhand dealer establishment permit issued by the Chief of Police in an open and conspicuous location.

B. The City may conduct reasonable inspections, during regular business hours, to ensure compliance with this Code, this Chapter, and other sections of the Riverside Municipal Code, and other applicable fire and health and safety requirements. An owner or employee cannot refuse to permit such lawful inspection of the premises at any time it is occupied or open for business.

C. All owners shall be responsible for the conduct of all of its employees while the employees are in the premises of the pawnshop or secondhand dealer establishment.

Section 5.90.090 Holding, Reporting, and Identification Requirements for Pawnshops, Pawnbrokers, and Secondhand Dealers.

Pawnbrokers, and secondhand dealers shall comply with Business and Professions Code sections 21628 through 21643 with regard to requirements for holding, reporting, and identification respecting tangible personal property, as defined in Business and Professions Code section 21627(b), acquired in the ordinary course of business. EcoATM Machines and other similar kiosk-type devices shall comply with the holding period prescribed in Chapter 9.70 of this Code.

Section 5.90.100 Bond.

Every pawnbroker shall furnish to the City a bond in the principal amount of \$20,000 guaranteeing faithful performance by the pawnbroker of the terms and conditions set forth in this Chapter and the Business and Professions Code.

Section 5.90.110 Report of Stolen Goods.

A. Every pawnshop, pawnbroker, and secondhand dealer shall immediately notify the Chief of Police by telephone or email when any property is offered to him or her for pledge or for sale under any circumstances that the pawnbroker or secondhand dealer knows or reasonably should have known the property so offered for pledge or sale to have been stolen.

B. Sworn Peace Officers employed by the Riverside Police Department are designated by the Chief of Police for purposes of California Financial Code 21206 to inspect Pawnshop records and premises.

C. Sworn Peace Officers employed by the Riverside Police Department are designated by the Chief of Police for purposes of California Business and Professions Code 21636.1 to inspect Secondhand Dealer records and premises.

Section 5.90.120 Violation and Penalty.

A. A violation of any provision of this Chapter under circumstances where a person knows or reasonably should have known that a violation was being committed is a misdemeanor punishable pursuant to Business and Professions Code section 21645, Chapter 1.01.110(A), and this Chapter.

B. The provisions of this Chapter may be enforced through the administrative code enforcement remedies set forth in Chapter 1.17 of this Code in addition to all other proceedings authorized by this Code or otherwise by law. The prevailing party in any action, administrative proceeding, or special proceeding to abate a nuisance shall be entitled to recover their attorney's fees and costs pursuant to Chapters 1.01, 1.17, and 6.15 of this Code, and Government Code section 38773.5. (Ord. 7121 § 1, 2011; Ord. 4109 § 1 (part), 1974)

Section 5.90.130 Revocation of a Pawnshop or Secondhand Dealer Establishment Permit.

A. Subject to the procedures set forth in this section, the Chief of Police may revoke a pawnshop or secondhand dealer's establishment permit issued pursuant to this Chapter whenever any of the following has occurred:

1. The holder of an establishment permit or his agents, contractors, or employees have committed a felony or crime involving dishonesty, fraud, deceit, or moral turpitude in connection with the operation of this business.
2. The holder of an establishment permit is acting in a manner that constitutes a public nuisance.
3. The holder of an establishment permit or their agents, contractors, or employees have violated any laws or regulations in connection with the operation of this business or failed to cooperate with the Riverside Police Department, where such actions constitute a pattern of conduct.
4. The Chief of Police determines the permit holder has made material misrepresentations in the permit application or makes any of the findings that would have justified denying the application for an establishment permit in the first instance under Section 5.90.070 of this Chapter.

B. If, in the discretion of the Chief of Police, the violation is capable of correction, then prior to revocation, a written notice shall be given to the permittee or certificate holder of the violation(s) involved to allow a period of time to correct the violation(s), which period shall not exceed five business days, at the end of said period, the Police Department shall conduct an inspection to determine whether the violation(s) has been corrected. If the Chief of Police determined that the violation(s) is not capable of correction or finds that the violation(s) continues without correction, then the Chief of Police may issue a notice of revocation.

C. To revoke an establishment permit, the Chief of Police shall serve upon the holder thereof, either by personal service or by United States Mail sent to address(es) listed on the establishment permit application, a written notice that said permit shall be revoked on a date specified in said notice. The cause or causes for revocation may be appealed to the City Council's Public Safety Committee pursuant to the procedures set forth in Section 5.90.150 of this Chapter. All pawning and secondhand dealing or work activity by an employee shall cease following issuance of the notice of revocation and no activity for which the permit is required shall be conducted.

D. A revoked establishment permit shall be immediately surrendered to the Chief of Police.

Section 5.90.140 Appeal.

A. An appeal to the Chief of Police's decision to deny or revoke an establishment permit pursuant to this Chapter must be filed with the City Clerk, in writing, within ten (10) calendar days after denial of the application or revocation of the establishment permit has been served. The appeal shall clearly state the applicable basis for the appeal. Service is deemed complete upon personal service or date of mailing.

B. The scope of the appeal hearing pursuant to this Section shall be limited to those issued raised by appellant in the written appeal, as submitted pursuant to subdivision (A) above.

C. Should an appeal of a revocation of an establishment permit be filed, the revocation decision will remain in effect and no activity for which the permit allows may occur on the property until such time as the Public Safety Committee has rendered a final decision.

D. Upon filing of the appeal, the City Clerk shall set the matter for hearing before the Public Safety Committee, which hearing will be set at the next available Public Safety Committee Meeting. The Committee may uphold, reverse, or modify the decision of the Chief of Police.

E. Any withdrawal of an appeal or the surrender of the establishment permit will be deemed a revocation of that permit.

Section 5.90.150 Establishment Permit Land Use.

A. If, within the past five (5) years, the Property had an establishment permit revoked under this Chapter or there was criminal activity relating to receiving stolen property, selling stolen property, storing stolen property, or similar illegal conduct, on the Property, the Chief of Police may deny any subsequent establishment permit for that Property up to one year from the date of the most recent denial of an establishment permit application.

B. An appeal of a denial of an establishment permit under this section may be made pursuant to the appeal provision of this Chapter.

Section 5.90.160 Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.