

ORDINANCE NO. 3-14 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND AMENDING CHAPTER 15.04, SECTIONS 15.04.013 USE TYPES; 15.04.020 DEFINITIONS, 15.04.220.040 C-2 CONDITIONAL USES; 15.04.230.040 C-3 CONDITIONAL USES; AND 15.04.910.080 REQUIREMENTS FOR SPECIFIC USES OR DISTRICTS, OF THE RICHMOND MUNICIPAL CODE TO ESTABLISH NEW REGULATIONS FOR SECONDHAND DEALERS, INCLUDING “CASH FOR GOLD” BUSINESSES

WHEREAS, the State Legislature has adopted requirements for the licensing of secondhand dealers, pawnbrokers and pawnshops, and their reporting of tangible personal property in connection with their businesses. The state legislature authorizes cities and counties to adopt licensing requirements to regulate these types of businesses within their jurisdiction; and

WHEREAS, the state has extensive requirements for licensing secondhand dealers and pawnbrokers, and for requiring personal identifying information of the seller and description of the property acquired. Some of these requirements can only be implemented by local law enforcement authorities; and

WHEREAS, a city is authorized to adopt local regulations which do not conflict with the state regulations (Business and Professions Code Section 21637 and 21638; Financial Code Section 2300 - 2043); and

WHEREAS, it is the intent of the Richmond City Council to consider and adopt new zoning regulations pertaining to second hand dealers, pawn shops, and gold and silver dealers in order to provide clear, consistent, and uniform guidance to these businesses, specifically “Cash for Gold” dealers with regard to locating and operating a business, while addressing community concerns, and to better regulate their business practices and activities within certain zoning districts within the City; and

WHEREAS, the City’s current regulations do not specifically address secondhand dealers, siting and location, operations and similar businesses and activities, including but not limited to the lack of definitions for: a) secondhand dealers; b) “Cash for Gold” businesses; and (c) pawnshops. Staff has proposed a zoning text amendment to clearly identify these types of land uses within specific commercial zoning districts; and

WHEREAS, on July 30, 2013, at a duly noticed public hearing, the City Council directed staff to research other municipalities regulations for pawnshops, secondhand dealers, and “Cash for Gold” dealers, meet with community representatives, and to amend the City’s existing Zoning Ordinance related to secondhand dealers. Meetings have been held with community representatives, “Cash for Gold” operators and the public, and input from these meetings have been considered in the preparation of this ordinance to propose regulations for secondhand dealers. An interim urgency moratorium was adopted to allow staff to research and prepare regulations governing secondhand dealers and related uses; and

WHEREAS, on January 16, 2014, the Planning Commission held a public hearing to discuss the ordinance and recommended that the City Council adopt the ordinance to allow changes to the Zoning Ordinance to require a Conditional Use Permit for all secondhand dealers within the City of Richmond; and

WHEREAS, the City Council finds the text amendment to be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15061(b)(3) of the Guidelines, Review for Exemption. The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; it can be seen with certainty that there is no possibility that the text amendment to the Zoning Ordinance in question will have a significant effect on the environment as the amendment is in accordance with the objectives of the General Plan; will protect the health, safety, morals, comfort, convenience and general welfare of the public by providing regulation and criteria for the regulation of secondhand dealers in the City of Richmond; will promote orderly operations of second hand dealers, including but not limited to “Cash for Gold” businesses in specific commercial zones; and will provide for a clear, concise and effective administration of the Zoning Ordinance.

WHEREAS, based on facts presented before or during the duly noticed public meeting to consider this Ordinance, the Council makes the following findings:

Finding 1. There is one or more of the following conditions present that justifies a change in the zoning districts:

- a) Land utilization has developed differently as to timing, location or in the manner of land development than originally anticipated.
- b) Changes have arisen from forces extraneous to the community.
- c) Changes have occurred caused by increased population or some other form of more intensive land utilization which has created an imbalance between land uses.
- d) Changes have occurred in governmental development policies (which will also mean changes in the General Plan).

Statement of Facts: Criteria satisfied with conditions (b) and (d) being present. Recent inquiries to open “Cash for Gold” businesses within the City have increased over the past year. The current City of Richmond General Plan, Zoning Ordinance and land use definitions do not describe a set of policies for this fairly new use and activity. To address changing demands on land use and activities, a revision to the Zoning Ordinance is necessary.

Finding 2. The location and the type of use permitted under the new classification are in accord with the objectives of the General Plan.

Statement of Facts: Criteria satisfied. The proposed zoning text amendment will further the goals of the General Plan by providing areas within commercial zones for establishment of economic opportunities to develop new opportunities for diversification of the local economy by increasing the number of new commercial activities in commercial zones (Goal LU3). Goal ED2.1 states that the City shall encourage a diverse and expanded tax base to protect the community from economic cycles.

This change in the text of the Zoning Ordinance and regulations for secondhand dealers, including but not limited to “Cash for Gold” businesses is in accordance with the objectives of the General Plan; will protect the health, safety, morals, comfort, convenience and general welfare; will promote orderly operation of commercial activities related to secondhand dealers; will provide for more effective administration of the ordinance related to secondhand dealers; and will regulate the location and operation of secondhand dealers to protect residents and businesses from harmful secondary effects from these types of businesses.

Finding 3. The amendment:

- a) Is in accord with the objectives of the General Plan;
- b) Will protect the public health, safety, morals, comfort, convenience and general welfare;
- c) Will promote orderly development of residential, commercial, industrial, recreational and public areas; and
- d) Will provide for more effective administration of the Zoning Ordinance.

Statement of Facts: Criteria a through d are satisfied. The proposed zoning text amendment will further the goals of the General Plan by providing areas within commercial zones for establishment of economic opportunities to develop new opportunities for diversification of the local economy by increasing the number of new commercial activities in commercial zones (Goal LU3). Goal ED2.1 states that the City shall encourage a diverse and expanded tax base to protect the community from economic cycles. This amendment to the Zoning Ordinance will further promote this General Plan goal by supporting local businesses and entrepreneurs by providing a range of business opportunities and flexible space opportunities including retail space along commercial corridors close to regional transportation infrastructure. The amendment will also clarify the permitting process for secondhand dealers in order to provide a more effective administration of the City of Richmond Zoning Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION 1. Richmond Municipal Code Section 15.04.013, Use Types is hereby amended by adding alphabetically the following to the list of general use types (~~strikeout text~~ indicates deletion; underline text indicates insertion):

Retail Services.

e. Secondhand dealers: consist of any person, co-partnership, firm, or corporation or other entity whose business includes buying, selling, trading, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property, subject to the definition and exclusions set forth in Business and Professions Code Section 21626. Typical uses include “cash for gold” businesses, pawnbrokers, and pawnshops, but exclude jewelry stores.

SECTION 2. Richmond Municipal Code Section 15.04.013, Definitions is hereby amended by adding alphabetically the following to the list of general use types (~~strikeout text~~ indicates deletion; underline text indicates insertion):

Antique Store - a retail business engaged in buying and selling antiques which consist of old objects such as china or furniture considered valuable because of their age, beauty or rarity. All business activity and storage shall be conducted within a building.

Coin dealer - any person, firm, partnership, or corporation whose principal business is the buying, selling and trading of coins, monetized bullion, or commercial grade ingots of gold, silver or other precious metals.

Commercial grade ingots - means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars and medallions are marked by the refiner or fabricator as to their assay fineness.

Gold and silver dealer - means the operation of a gold and silver business, either stand alone or in conjunction with the operation of a retail store (e.g. jewelry store, or similar store) which results in 20 percent or more of their gross business receipts being derived from the purchase of gold and silver or similar items (including but not limited to art objects, flatware, tableware or other household items). This category does not include coin dealers or antique stores.

Pawnbroker - any person, co-partnership, firm, or corporation in possession of a valid pawnbroker's license (California Financial Code, Section 2030-2043) whose business includes buying, selling, trading, "taking in pawn," accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property. The key difference between a pawnbroker and secondhand dealer is that a pawnbroker loans money for tangible personal property while a secondhand dealer does not. Pawnbroker does not include coin dealers, antique stores, auctioneers or reconditioning and selling household appliances.

Pawnshop - a business engaged in conducting, managing or carrying on the business of pawn brokering or loaning money, which includes buying, selling and taking in pawn tangible personal property.

Secondhand dealers - consist of any person, co-partnership, firm, or corporation or other entity whose business includes buying, selling, trading, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property, subject to the definition and exclusions set forth in Business and Professions Code Section 21626. Typical uses include "cash for gold" businesses, pawnbrokers, and pawnshops, but exclude jewelry stores. It does not include people who buy and sell second hand articles as defined and regulated in Chapter 7.60 and close-out sales in Chapter 7.24 of the Richmond Municipal Code, and does not include any business owned and operated by a charitable, non-profit entity.

SECTION 3. Section 15.04.220.040, **C-2 Conditional Uses**, Retail Services of Chapter 15.04 of the Zoning Ordinance of the City of Richmond Municipal Code is hereby amended by modifying the following to the list of Commercial Uses under Conditional Uses:

Secondhand dealers

SECTION 4. Section 15.04.230.040, **C-3 Conditional Uses**, Retail Services of Chapter 15.04 of the Zoning Ordinance of the City of Richmond Municipal Code is hereby amended by modifying the following to the list of Commercial Uses under Conditional Uses

Secondhand dealers

SECTION 5. Section 15.04.910.080, Requirements for Specific Uses and Districts of Chapter 15.04 of the Richmond Municipal Code is hereby amended by adding the following to the list of requirements for Specific Uses:

P. Secondhand Dealers

1. Purpose. The purpose of this section is to regulate the location and general operation and maintenance standards for secondhand dealers within the city to ensure security and compatibility with surrounding uses and properties and to avoid any impacts associated with such uses.
2. Exemptions. Jewelry stores, coin dealers, and antique stores are exempt from these conditions.
3. Application Process.
 - a. An operator shall submit a California Department of Justice, Secondhand Dealer or Pawnbroker License Application form to the Richmond Police Department for review and processing. The completed application must include a request for a live scan, processing fees, and a money order or check payable to the Department of Justice. If the application is for a pawnbroker license a surety bond must be attached to the application package.
 - b. The Richmond Police Department shall send the completed application package to the Department of Justice for processing to determine an applicant's eligibility for a secondhand dealer license. Once received, the Department of Justice will conduct a criminal background check and comment on the applicant's eligibility for the applied license within a specified period of time.
4. Site location, operation and development standards.

The standards set forth in this section shall apply to secondhand dealers unless otherwise specified in this section. The Planning Commission may approve a Conditional Use Permit for a secondhand dealer establishment providing the use conforms to the general criteria set forth in this section, to any and all applicable use permit criteria set forth in the particular commercial zoning districts and to all of the following criteria:

a. Site location:

- 1) Secondhand dealers shall be limited to C-2, General Commercial and C-3, Regional Commercial zoning districts.
- 2) A minimum separation distance of 1,000 feet is required between each commercially zoned parcel containing a secondhand dealer business, and no more than one secondhand dealer is allowed per parcel.
- 3) No secondhand dealers are allowed on commercially zoned parcels that abut residentially zoned parcels. Secondhand dealer uses that are on commercially zoned parcels that are located within 25 feet of a residentially zoned parcel must provide a neighboring policy plan for review by the Planning and Building Services Director or his designee to limit potential nuisances from occurring from the business.
- 4) No ingress or egress is allowed onto a residential street from a commercially zoned parcel containing a secondhand dealer business.
- 5) That the proposed business will not adversely affect nearby uses, including churches, schools, hospitals, and recreation centers.

b. Operation and Development Standards:

- 1) The proposed use and operation must not aggravate existing problems in the neighborhood nor create secondary effects on nearby commercial activities by its operation or Richmond Code Enforcement or Chief of Police may recommend a compliance hearing by the Planning Commission.
- 2) The business shall provide illumination for security and safety of parking access areas. On-site lighting plans shall be submitted to the City of Richmond Planning and Building Services Department for review and approval prior to issuance of a business license.
- 3) A security plan shall be provided to the Richmond Police Department and Planning and Building Services Department for review and approval prior to issuance of a business license.
- 4) Windows of the business shall not be tinted or obscured in any way, including by temporary or painted window signs, and the interior lighting of the business from the exterior of the business shall remain at adequate levels to clearly see into the business from the exterior of the business. The applicant shall remedy all violations of the provisions of Section 15.06 (Sign Ordinance) of the City of Richmond Municipal Code within 30 days of the date of approval of the Conditional Use Permit.
- 5) A sign shall be posted in the front of the business indicating that no loitering is permitted per the Richmond Municipal Code.
- 6) Prior to occupancy of the business, the business owner shall sign a trespass authority letter authorizing the Richmond Police Department to enforce trespass

law. A copy of this letter shall be provided to the Planning and Building Services Department.

- 7) Hours of operation shall be limited to the business based on an established period of time, from 9:00 a.m. to 6:00 p.m., Monday through Sunday, or modified based on the specifics of the establishment and its location. These hours may be less than but cannot exceed the recommended hours or days of operation by the ordinance.

5. Standard Conditions of Approval.

- a) Conditional Use Permits are required for all new secondhand dealer operations within the City to establish a regulatory process for these types of businesses. Notwithstanding any other provision contained in Chapter 15.04, a secondhand dealer or pawnbroker business shall only be permitted in C-2, General Commercial and C-3, Regional Commercial zoning districts, and only if approved by the Planning Commission.
- b) All businesses that engage in secondhand dealer operations shall be subject to inspection by City staff any time the Chief of Police or his designee finds that criminal or nuisance activities are occurring on or near the premises.
- c) These standard conditions of approval may be amended from time to time by the Planning and Building Services Director based on the nature of the industry and the frequency of changes occurring with state laws.
- d) The applicant shall fully comply with all requirements for secondhand dealers set forth in State Law, Business and Professions Code, Section 21625 et seq. and any other applicable statutes or ordinances.
- e) The business owner or operator shall maintain in good repair all building exteriors, walls, drainage facilities, landscaping, driveways and parking areas. The premises shall be kept clean and free of litter and weeds. Any graffiti painted on the property shall be removed within 48 hours of occurrence.
- f) All businesses with a valid secondhand dealer license shall be inspected by the Richmond Police Department every year to determine compliance with these conditions. The business owner shall pay a fee based on the Richmond Municipal Fee schedule for this inspection.
- g) Any modifications to these standard conditions shall require review and approval by the Planning Commission.
- h) A separate sign permit approval shall be required for any new signage related to the use permitted pursuant to this Conditional Use Permit.
- i) The facility shall have a digital video recording system that covers all points of entry, exit and areas of purchase. The video recording shall also cover areas

where cash and gold/precious metals are stored within the facility. Records of this recording capability shall be of good quality and have archives up to 45 days. These video archives shall be accessible to members of the Richmond Police Department and California Department of Justice upon request. The hard-drive or computer storing all digital records shall be maintained in a secured area and away from the view of the public.

- j) The facility shall be equipped with an alarm system that has instant panic-button/robbery notification capabilities and silent monitoring. The applicant shall maintain a valid alarm permit on file with the Richmond Police Department at all times.
- k) A separate room/area shall be maintained and alarmed for the storage of gold and cash. Tangible property may be stored off-site for the Department of Justice 30-day holding requirements.
- l) The following licensing requirements shall be maintained by the applicant/owner:
 - a. The applicant shall maintain a valid City of Richmond Business Tax License.
 - b. The applicant shall maintain a valid Secondhand Dealer's License issued by the California Department of Justice (21641 Business & Professions Code). This license shall be displayed in a conspicuous manner as to easily be seen by the public.
- m) The applicant shall properly document all property taken in trade or exchanged for cash and documented by the Secondhand Dealer Report Form (JUS123).
- n) The following forms of documentation/processes shall be administered during each customer transaction:
 - 1. A clear photo or digital copy of each person's driver's license, identification card, passport, military identification or any valid government issued form of identification.
 - 2. No sales will be conducted without proper identification. The identification provided will be photocopied and attached to the sales receipt or slip. A description of the property shall be entered on the sales receipt.
 - 3. A digital photograph of each item of property taken in trade or exchanged for cash. This photograph shall be maintained by the business for a minimum of five (5) years.
 - 4. Items purchased from a customer shall be stored and maintained by the business for 30 days prior to disposition and these shall be available for inspection at any time by the Richmond Police Department or any other law enforcement agency.
 - 5. All Secondhand Dealer Report Forms shall be submitted weekly to the Richmond Police Department (Regulatory Unit) at their business offices.
- o) The applicant shall comply with all future changes to California state laws for Secondhand Dealers regarding electronic reporting equipment.

- p) This Conditional Use Permit is subject for review by the Planning Commission six months after approval.
- q) The applicant shall abide by all these conditions of approval or the City of Richmond may elect to revoke the Conditional Use Permit.
- r) Pursuant to Section 15.04.910.070.E of the Richmond Zoning Ordinance, this Conditional Use Permit is subject to revocation if the exercise of rights granted by the Conditional Use Permit is discontinued for six (6) consecutive months or these conditions of approval are not met. The use may not be resumed if the Conditional Use Permit is revoked unless a new application for a conditional use permit is submitted and approved by the Planning Commission.
- s) The applicant agrees, on behalf of himself, his successor in interest and assigns, to defend, indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to acts or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant, City, and/or parties initiating or bringing such Proceeding. If applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

SECTION 7. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION 8. Effective Date.

This Ordinance becomes effective immediately after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held February 18, 2014, and finally passed and adopted at a regular meeting thereof held on March 18, 2014, by the following vote:

AYES: Councilmembers Bates, Butt, Boozé, Myrick, Rogers, Vice Mayor Beckles, Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 3-14 N.S.**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on March 18, 2014.