

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2011-30

INTRODUCED BY:

Councilor Calvert

Councilor Trujillo

AN ORDINANCE

AMENDING ARTICLE 18-4 SFCC 1987 TO REQUIRE CORE RECYCLERS, PRECIOUS METALS DEALERS AND TRANSIENT PRECIOUS METALS DEALERS TO OBTAIN A CITY BUSINESS LICENSE; AND TO REQUIRE PERSONS LICENSED UNDER ARTICLE 18-4 SFCC 1987 TO COMPLY WITH REGULATIONS REGARDING THE SALE OR PLEDGE OF COPPER, CATALYTIC CONVERTERS, PRECIOUS METALS AND OTHER ITEMS AS MAY BE DESIGNATED BY RESOLUTION OF THE GOVERNING BODY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Article 18-4 SFCC 1987 (being SFCC 1981, §9-7-1, as amended) is amended to read:

18-4 SECONDHAND DEALERS, PAWNBROKERS, ~~[AND]~~ JUNK DEALERS, CORE RECYCLERS AND PRECIOUS METAL DEALERS.

Section 2. Section 18-4.1 SFCC 1987 (being SFCC 1981, §9-7-1, as amended) is amended to read:

18-4.1 Definitions.

1 [A-] As used in ~~[this section]~~ Article 18-4 SFCC 1987:

2 Core recycler means a person, including a junk dealer, that buys used individual catalytic
3 converters, transmissions, or other parts previously removed from a vehicle. A person that buys a
4 vehicle that may contain these parts is not a core recycler.

5 *Junk dealer* means a person engaged in the business of purchasing or selling secondhand or
6 cast-off material of any kind, which is commonly known as and is hereinafter designated and referred
7 to as "junk" such as old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables,
8 wires, ropes, cordage, bottles, bagging, rags, rubber, paper and other like materials.

9 *Pawnbroker* means a person engaged in the business of lending money on the deposit or
10 pledge of personal property or who purchases personal property with an expressed or implied
11 agreement or understanding to sell it back at a stipulated price. If a pawnbroker also purchases used
12 merchandise for resale, he must do so in accordance with the provisions of this section.

13 *Person* means any individual, partnership, corporation, firm or association or any
14 combination thereof.

15 Precious metal means any object comprised, in whole or in part, of gold, silver or platinum
16 shall, for the purposes of this article, be deemed to be a precious metal. Aluminum, brass and other
17 valuable metals shall not be deemed as precious metals.

18 Precious metals dealer means any person, who deals, in whole or in part, in the purchase,
19 trade or pledge of precious metals.

20 *Secondhand dealer* means a person whose primary business is conducting a secondhand store
21 or dealing in secondhand goods, other than used car dealers and merchants taking furniture,
22 appliances and like items, whether or not such person, in addition to or in connection with such
23 secondhand business keeps in stock for retail, goods, wares or merchandise.

24 Transient precious metals dealer means a precious metals dealer who maintains a place of
25 business in the city for less than one calendar year.

1 ~~[B. — Any business defined herein which deals with or purchases gold, silver or platinum is~~
2 ~~subject to the specific requirements set forth in this article for these items.]~~

3 **Editor's Note:** For state law ~~[as to]~~ regarding used merchandise generally, see the Used Merchandise
4 Act, [Sees.] 57-9-1 through 57-9-5 NMSA 1978. For state law ~~[as to]~~ regarding junk dealers, see
5 ~~[Sees.] 57-7-1 through 57-7-7 NMSA 1978.~~ For authority of city to license and regulate secondhand
6 ~~[stores] dealers and junk dealers or any person who accepts used merchandise for value, see [See.] 3-~~
7 ~~18-24 NMSA 1978.~~

8 **Section 3. Section 18-4.2 SFCC 1987 (being Ord. #1981-64, §33) is amended to**
9 **read:**

10 **18-4.2 License Required.**

11 It is unlawful for a person to engage in any business, as defined by Section 18-4.1 SFCC 1987, and
12 coming under the provisions of ~~[this section]~~ Article 18-4 SFCC 1987, without first obtaining a
13 business license, ~~[therefore]~~ as required by ~~[Section]~~ Article 18-2 SFCC 1987~~[, Business Licenses].~~

14 **Editor's Note:** For state law as to authority of city to require licenses, see Sec. 3-18-24 NMSA 1978.

15 **Section 4. Section 18-4.9 SFCC 1987 (being Ord. #1968-13, §5) is amended to read:**

16 **18-4.9 Record of Business Transactions.**

17 A. ~~[It is the duty of every]~~ Every person [engaged in the business of secondhand dealer,
18 pawnbroker or junk dealer in the city to provide a well-bound book to be kept at his place of business
19 in which a record of all transactions had by the person shall be kept.] licensed under the provisions of
20 Article 18-4 SFCC 1987 shall maintain a written record of all transactions made, except as provided
21 in Paragraph B., below. The record shall contain:

22 (1) An accurate and complete description of every ~~[article taken in as a pledge~~
23 ~~or]~~ item purchased or pledged, including serial numbers, if any;

24 (2) An accurate and complete description of the person from whom the ~~[goods]~~
25 items were [received or] purchased or pledged; and

1 (3) The name and address of the person [~~and his house and street address~~] from
2 whom the items were purchased or pledged, his date of birth or social security number,
3 identification number and type of identification shown.

4 [~~B. — The record book shall be open at all times to the inspection of any member of the~~
5 ~~police department, county sheriff, state police or any person authorized by the chief of police.~~]

6 B. Every person licensed under the provisions of Article 18-4 SFCC 1987 shall maintain
7 a written record of all transactions made for the purchase or pledge of copper, catalytic converters,
8 precious metals or other items designated by resolution of the governing body.

9 (1) The record shall contain:

10 (a) The time, place and date of the transaction; and

11 (b) A brief description of each item, including any serial number or
12 identification number; and the price paid therefore, the item traded for or the amount
13 of the pledge accepted; and

14 (c) The name of the person selling or pledging the object; the social
15 security number or date of birth of the seller or pledger, the address of the seller or
16 pledger and a record of a form of valid identification containing a photograph of the
17 individual presented by such person at the date of sale or pledge, such record to
18 include the identifying number contained on such identification; and

19 (d) The vehicle license number, including state of issue, of the motor
20 vehicle used to transport the item; and

21 (e) A statement indicating either that the seller of the item is the owner,
22 or the name of the person from whom he or she has obtained the item, including the
23 business, if applicable, as shown on a signed transfer document; and

24 (f) The name of the person who accepts the item for purchase or pledge
25 on behalf of the licensed business.

1 (2) Except for a transient precious metals dealer, a person licensed under the
2 provisions of Article 18-4 SFCC 1987 may pay the seller or pledger of copper, catalytic
3 converters, precious metals or other items designated by resolution of the governing body, by:

4 (a) Check, mailed to the seller's or pledger's address; or

5 (b) Cash, after the five (5) day time period required by Section 18-4.10
6 has lapsed.

7 (3) A transient precious metals dealer may make a payment in cash to any seller
8 or pledger of copper, catalytic converters, precious metals or other items designated by
9 resolution of the governing body.

10 C. Any record made under the provisions of this Section shall not be damaged, altered
11 or destroyed.

12 D. All records required to be made and kept under the provisions of this section shall be
13 maintained at the principal place of business within the city for a period of eighteen (18) months from
14 the date a record is made. However, a transient precious metals dealer shall store all records at a
15 location in the city of Santa Fe, designated by the dealer, during such times within the eighteen (18)
16 month record-keeping period as the transient precious metals dealer is not maintaining a place of
17 business within the city. The transient precious metals dealer shall notify the Santa Fe police
18 department of the location of the stored records

19 E. All records kept in compliance with the provisions of this section shall be available
20 for inspection by law enforcement officers of Santa Fe county, the city of Santa Fe and state of New
21 Mexico or the city business license administrator, during regular business hours, at the principal place
22 of business. In the case of a transient precious metals dealer, all records shall be stored at location
23 designated by the dealer where such records are open for inspection at least 40 hours each week.

24 F. All records kept in compliance with the provisions of this section shall be the
25 property of the business and shall in no respects be considered public records.

1 **Editor's Note:** For state law requiring records of junk dealers, see [~~See:~~] 57-7-2 NMSA 1978. For
2 state law providing for inspection of records for used merchandise, see [~~See:~~] 57-9-4 NMSA 1978.
3 See also [~~See:~~] 3-18-24 NMSA 1978.

4 **Section 5. Section 18-4.10 (being SFCC 1981, §9-7-10) is amended to read:**

5 **18-4.10 Time Period for Retaining Purchased Goods.**

6 A. [~~No pawnbroker, secondhand dealer, or junk dealer~~] A person licensed under the
7 provisions of Article 18-4 SFCC 1987 shall not sell or remove from his place of business any item or
8 secondhand goods other than furniture and household goods purchased by him until the same have
9 been in his possession for [~~not less than~~] a period of five (5) working days.

10 B. All [~~gold, silver and platinum~~] copper, catalytic converters, precious metals or other
11 items designated by resolution of the governing body shall be retained by [~~secondhand dealers,~~
12 ~~pawnbrokers and junk dealers~~] persons licensed under the provisions of Article 18-4 SFCC 1987, in
13 the form in which ~~such items were~~ purchased, for a period of five (5) working days.

14 [~~Editor's Note: For relevant state law, see Ch. 323, Laws 1981.~~]

15 **Section 6. Section 18-4.11 SFCC 1987 (being Ord. #1968-13, §12) is amended to**
16 **read:**

17 **18-4.11 Business Hours.** [~~Secondhand dealers, pawnbrokers and junk dealers~~]
18 Persons licensed under the provisions of Article 18-4 SFCC 1987 may operate their businesses only
19 between the hours of 6:00 a.m. and 7:00 p.m. each day and shall keep their businesses closed to the
20 public at all other times.

21 **Section 7. Section 18-4.12 SFCC 1987 (being Ord. #1968-13, §12) is amended to**
22 **read:**

23 **18-4.12 Premises to be Kept in Sanitary Condition.**

24 A. The place where articles are kept or stored by [~~secondhand dealers, pawnbrokers and~~
25 ~~junk dealers within the city~~] persons licensed under the provisions of Article 18-4 SFCC 1987 shall at

1 all times be kept in a sanitary condition.

2 B. The place of business of any person coming under the provisions of this [a]Article
3 shall at all reasonable times be open to inspection by the chief of police, the county sheriff or the
4 public health officers of the state, district, county or city

5 **Section 8. Section 18-4.14 SFCC 1987 (being Ord. #1968-13, §7) is amended to**
6 **read:**

7 **18-4.14 Furnishing of False Information.**

8 It is unlawful for [~~any secondhand dealer, pawnbroker or junk dealer to~~] a person licensed under the
9 provisions of this Article to falsify any record required under the provisions of [this section] Article
10 18-4 SFCC 1987 or for a licensee or any other person to furnish false information in connection with
11 the sale, pledge or exchange of any goods.

12 **Section 9. Section 18-4.15 SFCC 1987 (being Ord. #1968-13, §9) is amended to**
13 **read:**

14 **18-4.15 Accepting Property from Minors or Other Persons Restricted.**

15 It is unlawful for any [~~secondhand dealer, pawnbroker or junk dealer in the city~~] person licensed
16 under the provisions of Article 18-4 SFCC 1987 to knowingly:

17 A. Buy or accept property as a sale or pledge from any minor without the written
18 consent of the parent or guardian of the minor to so deliver or dispose of the property; or

19 B. [~~Knowingly b~~]Buy or accept property as a sale or pledge from any person who is at
20 the time intoxicated, an habitual drunkard, under the influence of narcotic or other incapacitating
21 drugs, a thief or an associate of thieves, a receiver of stolen property or a person convicted of a
22 felony.

23 **Section 10. Section 18-4.16 (being Ord. #1968-13, §10, as amended) is amended to**
24 **read:**

25 **18-4.16 Marked Property.**

1 A. ~~[It is unlawful for any secondhand dealer, pawnbroker, or junk dealer to buy]~~ A
2 person licensed under the provisions of Article 18-4 SFCC 1987 shall not purchase any property or
3 receive the same as a pledge, if the property is ~~[distinctly and plainly]~~ clearly marked as being the
4 property of ~~[any]~~ a person, other than the [party] person offering to sell or pledge [the same,] such
5 property. ~~[unless the party]~~ However, if the person offering to sell or pledge the [same] property
6 shows satisfactory evidence in writing that he is the lawful owner of the property; or has been granted
7 permission by the owner to sell or pledge the property, then the person licensed under the provisions
8 of Article 18-4 SFCC 1987 may purchase the property.

9 B. ~~Failure to require such written evidence, as prescribed in Paragraphs A, above~~ shall
10 be prima facie evidence of guilty knowledge on the part of the licensee, his agents or employees that
11 the ~~[party] person offering to pledge or sell the [same] property~~ is not the rightful owner thereof and
12 shall be sufficient cause for revocation of the license of the licensee by the city after notice and public
13 hearing held before the governing body, as provided in ~~[Section]~~ Article 18-1 SFCC 1987, Business
14 Licenses.

15 **Section 11. Section 18-4.17 SFCC 1987 (being Ord. #1968-13, §14) is amended to**
16 **read:**

17 **18-4.17 Applicability of ~~[Section]~~ Article to Existing Businesses.**

18 The provisions of this ~~[section]~~ Article shall apply to any person presently licensed ~~[as a secondhand~~
19 ~~dealer, pawnbroker or junk dealer by the city]~~ under the provisions of Article 18-4 SFCC 1987.

20 **Section 12. Section 18-4.20 SFCC 1987 (being Ord. #1968-13, §15) is amended to**
21 **read:**

22 **18-4.20 Violations of Section.**

23 A. Any person, or his agents or employees, who violates any provision of ~~[this section]~~
24 Article 18-4 SFCC 1987, shall, on conviction, be punished as provided in Section 1-3, SFCC ~~[1981]~~
25 1987.

1 B. Violation of this article shall constitute sufficient cause for revocation of [the
2 ~~secondhand dealer's, pawnbroker's or junk dealer's~~] a license issued under the provisions Article 18-4
3 SFCC 1987.

4 **Section 13. Section 18-8.10 (being Ord. #1981-64, §3, as amended) is amended to**
5 **read:**

6 **18-8.10 . Business License - Fees.**

7 A. Pursuant to Section 3-38-1 through 3-38-6 NMSA 1978, it is hereby declared by the
8 governing body of the city of Santa Fe, that in order to protect the public health, general welfare and
9 morals of the citizens of the city of Santa Fe, and for purposes of business regulation in the public
10 interest, a business licensee fee shall be assessed as follows:

11 (1) Adult bookstores, as defined in Section 14-12 SFCC 1987*, fifty dollars
12 (\$50.00) per year, for each place of business;

13 (2) Adult motion picture theaters, as defined in Section 14-12 SFCC 1987*, fifty
14 dollars (\$50.00) per calendar year, for each place of business;

15 (3) Alarm installation companies and alarm monitoring companies, seventy-five
16 dollars (\$75.00) per calendar year, for each place of business.

17 (4) Antique dealers, ten dollars (\$10.00) per year, for each place of business;

18 (5) Artist/artisan, ten dollars (\$10.00) per calendar year;

19 (6) Auctions, one hundred dollars (\$100.) per day;

20 (7) Carnivals, under the conditions prescribed in Section 18-7 SFCC 1987, one
21 hundred fifty dollars (\$150.) per day;

22 (8) Circuses, under the conditions prescribed in Section 18-7 SFCC 1987, one
23 hundred fifty dollars (\$150.) per day;

24 (9) Core recyclers, as defined in Section 18-4.1 SFCC 1987, (need to establish a
25 license fee).

1 (~~9~~10) Itinerant food vendors, as defined in subsection 18-1.2G, ten dollars (\$10.00)
2 for each vendor per calendar year, per location. Prior to applying for an itinerant food vendors
3 license, the applicant shall meet any applicable federal, state, and city requirements, and
4 furnish the city with a copy of a valid food purveyors certificate issued by the state
5 environmental division, and a certificate of occupancy issued by the city code enforcement
6 department;

7 (~~10~~11) Itinerant vendors, ten dollars (\$10.00) per calendar year, per location;

8 (~~11~~12) Jewelry auctions as defined by subsections 18-5.4 through 18-5.23 SFCC
9 1987, one hundred dollars (\$100.) per day. These auctions shall be licensed per the provisions
10 of subsections 18-5.4 through 18-5.23 SFCC 1987 and the provisions of this section shall not
11 apply if they conflict with Section 18-5 SFCC 1987;

12 (13) Junk dealers as defined in Section 18-4.1 SFCC 1987, (need to establish a
13 license fee) per year, for each place of business;

14 (~~12~~14) Massage parlors, fifty dollars (\$50.00) per year, for each place of business;

15 (~~13~~15) Mobile home parks, as defined by Section 14-12 SFCC 1987*, two dollars
16 (\$2.00) per space, with a minimum charge of fifty dollars (\$50.00) per park;

17 (~~14~~16) Pawnbrokers, as defined in subsection 18-4.1 SFCC 1987, under the
18 conditions prescribed by Section 18-4 SFCC 1987, two hundred fifty dollars (\$250.) per year,
19 for each place of business;

20 (17) Precious metals dealers, as defined in Section 18-4.1 SFCC 1987, (need to
21 establish a license fee) per year for each place of business;

22 (~~15~~18) Private day-care nurseries, facilities and kindergartens, under the conditions
23 prescribed in Section 14-6.2(B)(4) SFCC 1987*, ten dollars (\$10.00) per year, for each place
24 of business;

25 (~~16~~19) Private detectives or private detective agencies, as defined in subsection 20-

1 24.1 SFCC 1987, and under the conditions prescribed by Section 20-24 SFCC 1987, fifty
2 dollars (\$50.00) per year, for each place of business;

3 (~~17~~20) Sales of goods brought into the city temporarily by itinerant vendors, as
4 described in Section 18-3 SFCC 1987, under the conditions prescribed in subsections 18-3.1
5 through 18-3.3 SFCC 1987, two hundred dollars (\$200.) per occurrence;

6 (~~18~~21) Secondhand dealers, as defined in subsection 18-4.1 SFCC 1987, under the
7 conditions prescribed by Section 18-4 SFCC 1987, ten dollars (\$10.00) per year, for each
8 place of business;

9 (~~19~~22) Special policemen or special police agencies as defined in subsection 20-
10 24.1 SFCC 1987, under the conditions prescribed in Section 20-24 SFCC 1987, fifty dollars
11 (\$50.00) per year. Those special police exempted under subsection 20-24.4 SFCC 1987 shall
12 not be required to obtain a business license;

13 (~~20~~23) Septic tank cleaners or septage haulers, under the conditions prescribed in
14 Section 22-2 SFCC 1987, fifty dollars (\$50.00) per year, for each place of business.

15 (~~21~~24) Street performers, as defined in subsection 23-8.3 SFCC 1987, thirty-five
16 dollars (\$35.00) per year, unless a street performer will perform for no more than one thirty
17 (30) day period per year, ten dollars (\$10.00).

18 (25) Transient precious metals dealer, as defined in Section 18-4.1 SFCC 1987,
19 (need to establish a license fee), per location;

20 B. Before a license is granted, the following businesses shall execute and deliver a bond
21 to the city clerk to be approved by the clerk and the city attorney with a corporate surety authorized
22 by the laws of the state to write surety bonds and conditioned for the lawful conduct of the businesses
23 and for the true and faithful observance of applicable provisions of the SFCC 1987; such bond shall
24 be for the benefit of the city and every person damaged by breach of any condition thereof;

25 (1) Pawnbrokers, in the amount of five thousand dollars (\$5,000.); and

1 (2) Jewelry auctions, as defined in subsections 18-5.4 through 18-5.23 SFCC
2 1987, in the amount of five thousand dollars (\$5,000.), as set forth in subsection 18-5.15
3 SFCC 1987.

4 C. It is unlawful for any person to engage in the businesses, professions or trades
5 defined in this section as requiring a license, within the corporate limits of the city, without first
6 obtaining a license as prescribed by this section and pursuant to Section 3-38-1 NMSA 1978.

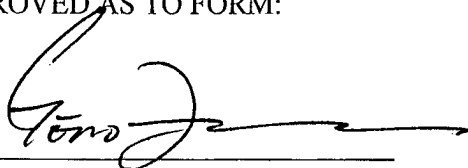
7 D. The license fees established in this subsection are hereby declared to have been
8 reviewed on a case-by-case basis by the governing body of the city of Santa Fe and are hereby found
9 to bear a reasonable relationship to the costs of regulations of each business by the city of Santa Fe.

10 E. Prior to engaging in any business to which this section applies, there shall be paid to
11 the city of Santa Fe the applicable license fee and in the event the fee is paid after the beginning of the
12 calendar year, it shall not be prorated.

13 F. Any person filing an application for issuance or renewal of any business license shall
14 include on the application his current revenue division taxpayer identification number or evidence of
15 application for a current revenue division taxpayer identification number. No license shall be issued
16 unless such number or application has been furnished.

17 ***Editor's Note:** The reference numbers have been changed to agree with revised Chapter 14, adopted
18 December 31, 2001. Requirements for adult bookstores and adult motion picture theaters may be
19 found in Section 14-6.2(C)(1). Requirements for mobile home parks may be found in Section 14-
20 6.2(A)(5).

21 APPROVED AS TO FORM:

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23 _____

24 GENO ZAMORA, CITY ATTORNEY

25 *mdb/caojep&mdb/bills 2011/Core Recycler- Precious Metals Dealers (substitute)*