



Republic of the Philippines  
**QUEZON CITY COUNCIL**  
Quezon City  
16<sup>th</sup> City Council

43<sup>rd</sup> Regular Session

ORDINANCE NO. SP- 1620, S-2005  
(PO2005-257)

AN ORDINANCE GRANTING VISITORIAL POWER TO ALL STATION COMMANDERS OF THE QUEZON CITY POLICE DISTRICT POSTED IN QUEZON CITY OVER BUSINESS ESTABLISHMENTS OF SECOND-HAND ARTICLES FOR THE PROPER AND EFFECTIVE ENFORCEMENT OF PRESIDENTIAL DECREE 1612 (ANTI-FENCING LAW) AND REPUBLIC ACT 6539 (ANTI-CARNAPPING LAW) AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

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Introduced by Councilors EDCEL B. LAGMAN, JR., ANTONIO E. INTON, JR., ELIZABETH A. DELARMENTE, JOSEPH P. JUICO, WINSTON "Winnie" T. CASTELO, RAMON P. MEDALLA, GODOFREDO L. LIBAN III, RESTITUTO B. MALANGEN and XYRUS L. LANOT.

Co-Introduced by Councilors Jorge B. Banal, Jr., Julian M.L. Coseteng and Bayani V. Hipol.

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WHEREAS, reports from law enforcement agencies reveal that there is an upswing of carnapping cases and cellular phone snatching in Quezon City, which articles eventually find its way to establishments, engaged in the selling of second hand articles to the public;

WHEREAS, in order to alleviate this problem and effectively prevent similar activities there is an urgent need to grant visitorial powers to all station commanders of the Quezon City Police District (QCPD) and institute a more stringent procedure in the issuance of business permits or licenses to business establishments engaged or known to be engaged in the sale of said second hand articles such as auto spare parts and cellular phones;

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WHEREAS, law enforcement agencies are of the belief that there is a strong connection between the upward trend of illegal activities like carnapping and cellular phone snatching so that the auto parts and stolen cellular phones can be sold to second hand dealers in Quezon City and the lack of visitorial powers of Station Commanders as well as the relative ease by which these establishments are able to secure business permits or licenses;

WHEREAS, this ordinance will give more teeth to the pertinent provisions of Presidential Decree No. 1612 (Anti-Fencing Law) and Republic Act. No. 6539 (Anti-Carnapping Law);

WHEREAS, law enforcement agencies revealed that the common elements between carnapping and cell phone snatching is fueled by the presence of a network of second hand dealers who for business considerations are not vigilant as to the source, names and addresses of the persons from whom said articles were acquired;

WHEREAS, it is believed that the lucrative business of dealing in second hand articles is encouraging carnappers and cell phone snatchers in Quezon City which has earned the latter the unfortunate title of "Carnapping Capital of the Philippines",

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN REGULAR SESSION ASSEMBLED:

SECTION 1. Title - This ordinance shall be known as the "Anti-Fencing and Anti-Carnapping Ordinance of Quezon City."

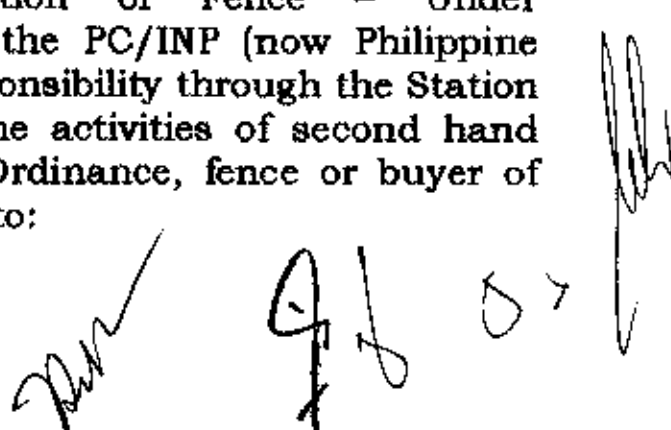
SECTION 2. Definition of Terms - The following terms shall mean as follows:

- a. "Fencing" - is the act of any person who, with intent to gain for himself or for another, shall buy, receive, process, keep, acquire, conceal, sell or dispose of, or shall buy, or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.

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- b. "Fence" - includes any person, firm, association, corporation or partnership or other organization who, which commits the act of fencing.
- c. "Carnapping" - is the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things.
- d. "Motor Vehicle" - is any vehicle propelled by any power other than muscular power using the public highways, but excepting road bulldozers, graders, forklifts, amphibian trucks, and cranes if not used on public highways, vehicles, which run only on rail or tracks, and tractors, trailers and tractor engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.
- e. "Used second hand article" - shall refer to any goods, article, item object or anything of value obtained from an unlicensed dealer or supplier, regardless of whether the same has actually or in fact been used.
- f. "Store", "establishment" or "entity" - shall be construed to include any individual dealing in the buying and selling used second hand articles, as defined in the preceding paragraph.
- g. "Buy and Sell" - refers to the transaction whereby one purchases used second hand articles for the purpose of resale to third persons.

SECTION 3. Categorization of Fence - Under Presidential Decree No. 1612, the PC/INP (now Philippine National Police) is given the responsibility through the Station Commanders, of supervising the activities of second hand dealers. For purposes of this Ordinance, fence or buyer of stolen articles are categorized into:

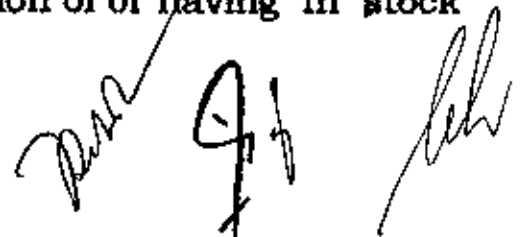
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Category I - Buying second hand item and openly selling them to the public. They are usually small and medium cellphone vendors who are buying second hand items and selling them in their stalls, or motor vehicle spare parts vendors who maintain a shop or store open to the public. They have the necessary business permits and license to operate a store.

Category II - Buyer of second hand articles and selling them to a selected group or clients through a network of dealers. They are not open to the public and could have been licensed to do business other than selling second hand items.

**SECTION 3. Procedure in the Issuance of Clearance and Permit to Sell Second Hand Articles for Category I -**

1. A store selling used second hand articles should have two (2) permits: a permit or license from the Business Permits and Licensing Office (BPLO) to engage in such business and a clearance/permit from the Station Commander concerned to allow him to sell used second hand article.
2. The Station Commander shall prepare and maintain a list of all persons and establishments authorized to engage in buying and selling used second hand articles. Covert intelligence operatives shall regularly monitor the activities of these establishments.
3. The Station Commander concerned, or his representative shall verify from the BPLO at the City Hall if the establishments included in the list are covered by a permit or license to engage in business of buying and selling used second hand articles. In the absence of such permit/license, concerned storeowner shall be advised to secure the same from the BPLO.
4. The Station Commander concerned shall require the owner of a store or the president, manager or responsible officer-in-charge of a firm, establishment or other entity located within their respective jurisdictions and in possession of or having in stock



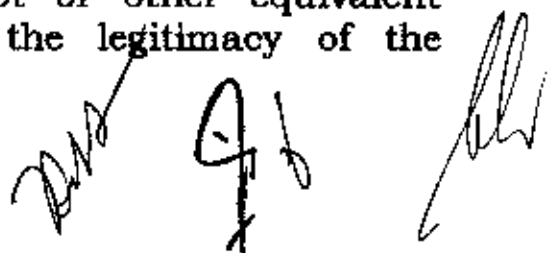
used second hand articles to submit an initial affidavit within thirty (30) days from receipt of notice for the purposes thereof and subsequent affidavits once every fifteen (15) days within five (5) days after the period covered, which shall contain:

- a. A complete inventory of such articles acquired daily from whatever source and the names and addresses of the persons from which such articles were required.
- b. A full list of articles to be sold or offered for sale.
- c. The place where the articles are presently deposited or kept in stock.

The Station Commander may, at his discretion when the circumstances of each case warrant, require that the affidavit submitted be accompanied by other documents showing proof of legitimacy of the acquisition of the articles.

5. A party required to secure a clearance or permit to sell second hand articles shall file an application therefor with the Station Commander concerned. The application shall state:
  - a. The name, address and other pertinent circumstances of the persons, in case of an individual or, in the case of a firm, corporation, association, partnership or other entity, the name, address and other pertinent circumstances of the president, manager or other officer-in-charge.
  - b. The article to be sold or offered for sale to the public and the name and address of the unlicensed dealer or supplier from whom such article was acquired.

In support of the application, there shall be attached to it the corresponding receipt or other equivalent document to show proof of the legitimacy of the acquisition of the article.



6. The Station Commander shall examine the documents attached to the application and may require the presentation of other additional documents, if necessary, to show satisfactory proof of the legitimacy of acquisition of the article, subject to the following conditions:
- a. If the legitimacy of acquisition of any article from an unlicensed source cannot be satisfactorily established by the documents presented, the Station Commander shall, upon approval of the District Director and at the expense of the party seeking clearance/permit, cause the publication of a notice in a newspaper of general circulation for two (2) successive days enumerating therein the articles acquired from an unlicensed dealer or supplier, the names and addresses of the persons from whom they were acquired and shall state that such articles are to be sold or offered for sale to the public at the address of the store, establishment or other entity seeking the clearance/permit.
  - b. If after fifteen (15) days, upon expiration of the period of publication or of the notice referred to in the preceding paragraph, no claim is made with respect to any articles enumerated in the notice, the Station Commander shall issue the clearance or permit sought.
  - c. If before the expiration of the same period for publication of the notice or its posting, it shall appear that the articles in question is a stolen property, the Station Commander shall hold the article in restraint as evidence in appropriate case to be filed. Articles that are held in restraint shall be kept and disposed of as the circumstance of each case permits. In case of articles held in restraint, it shall be the duty of the Station Commander concerned to advise/notify the Commission on Audit of the same and comply with the procedures applicable under existing laws, rules and regulations.

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7. The Station Commander concerned shall, within seventy-two (72) hours from receipt of application, issue the clearance/permit requested or deny the same. Denial of application shall be in writing and shall state in brief the reasons therefore.

**SECTION 4. Procedure in Issuance of Clearance and Permit to Sell Second Hand Articles for Category II:**

1. All Station Commanders shall monitor their respective areas of responsibility for presence of buyers and stockyard/bodegas of suspected stolen articles.
2. In case an individual is reported to be engaged in the buying of stolen properties or a stockyard/bodega is also reported being used as storage area for such articles, the Station Commander shall validate said report through covert intelligence operation. If said operation fails to establish said report, information regarding suspected individual and fence/storage area, the same should be filed for future reference.
3. In case of report against suspected fence/storage area is validated through covert intelligence operations, the Station Commander or his authorized representative shall secure a Search Warrant from the Court.
4. The application for Search Warrant shall state the place to be searched, its location and the description and approximate quantity of articles to be seized.
5. The Station Commander or his representative, armed with a Search Warrant shall proceed to conduct an investigation on the suspected storage area and seize any or all articles included in the Search Warrant. All seized articles shall be properly receipted. The PNP's Rules on the Conduct of Search shall be observed.

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6. The owner or the caretaker of the searched premises present during the search shall be brought to the police station for investigation and subsequent inquest in the Prosecution Office.
7. In case of absence, the owner or caretaker of the searched premises shall be invited to the police station as soon as they are able and shall be given the opportunity to explain the presence of the stolen articles in his possession.
8. A complaint for violation of PD 1612 shall be filed before the Prosecutor's Office as evidence may warrant.
9. All seized articles shall remain under the custody of the seizing unit until further orders by the Court.

SECTION 5. Visitorial Power. It shall be the duty of the owner or any responsible officer-in-charge of any firm or establishment who has in their premises articles to be sold or offered for sale to the public to allow the Station Commander or his representative to exercise visitorial powers. The following procedures shall be observed:

1. At least once a month or as often as may be directed by the District Director, the Station Commander or his representative shall conduct visitation of the establishments which are selling second-hand articles of those that are classified under Category I.
2. Before the visit to Category I establishments, concerned Station Commanders shall submit a request to conduct a visit to the District Director. Said request shall state the name of the store/establishment, name of the owner, location, articles for sale and the date of the intended visit.

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3. Upon approval by the District Director, the Station Commander or his representative shall conduct a visit on the concerned establishment on the date indicated on the request. Visitation shall only be made during office/business hours. For any other reasons that a visit be made on any other date, a report should be submitted to the District Director stating the reasons thereof.
4. The sole purpose of the visitation is to determine whether the articles are kept in the possession of a store contrary to the intents of Section 6, PD1512 or RA 6539.
5. Visitation Report shall be submitted to the District Director stating the result of visitations conducted. It shall state the name of the store, its location and the name of the owner. If any article was confiscated, the same shall be stated in the report together with the description of the article, its identifying number and the reason for the confiscation.
6. Articles obtained from unlicensed sources for sale or offered for sale without prior compliance with the provision of Section 6 of PD 1612 or RA 6539 and articles for which no satisfactory evidence of legitimacy of acquisition is established and which are found to be stolen properties in court shall be charged with the violation of PD 1612 or RA 6539 in Court.
7. All seized articles shall be properly receipted. Receipts shall include the quantity and description of the articles seized. It shall also bear the signature of the Storekeeper or any person acting in his behalf, as well as persons who witnessed the seizure.
8. Any person who shall sell or offer to sell second-hand articles without prior clearance from the Station Commander shall be charged with the violation of PD 1612 and RA 6539. Likewise, the concerned Station Commander shall recommend to the proper authorities the cancellation of the business license of the erring individual, store or establishment.

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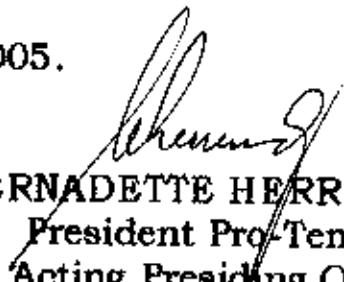
SECTION 6. Penalties. - Violators of this Ordinance shall be penalized in accordance with the pertinent provisions under PD 1612 or RA 6539 and in addition, shall be penalized by imprisonment for a period not exceeding one (1) year and a fine of Five Thousand Pesos (P5,000.00) with a permanent cancellation of their business permit and/or license.

SECTION 7. Repealing Clause. - Any ordinance or resolution or portion thereof, which is inconsistent herewith is hereby modified, amended and/or repealed accordingly.

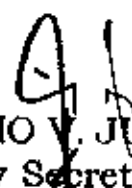
SECTION 8. Separability Clause. - If for any reason or reasons, any part or provision of this Ordinance shall be held to be unconstitutional or invalid, other parts or provisions thereof not affected thereby shall continue to be in full force.

SECTION 9. Effectivity and Enforceability. - This Ordinance shall take effect immediately upon approval.


ENACTED: November 22, 2005.

  
BERNADETTE HERRERA-DY  
President Pro-Tempore  
Acting Presiding Officer

ATTESTED:


  
EUGENIO V. JURILLA  
City Secretary

APPROVED: DEC 28 2005

  
FELICIANO R. BELMONTE, JR.  
City Mayor

**CERTIFICATION**

*This is to certify that this Ordinance which was APPROVED on Second Reading on November 22, 2005, was finally PASSED on Third/Final Reading by the City Council on November 29, 2005.*

  
EUGENIO V. JURILLA  
City Secretary