

ORDINANCE BILL NO. 12 FOR 2003

ORDINANCE NO. 1159

AN ORDINANCE CONCERNING SECONDHAND DEALERS.

Whereas the Police Department of the City of Sweet Home desires to regulate the process of dealing in secondhand goods to reduce the transfer of stolen property;

The City of Sweet Home does ordain as follows:

Section 1. Definitions.

- A. "Garage sale" "estate sale" or "yard sale" means the sale of used personal items from a place of residence on an irregular and temporary basis. Any person who conducts a garage sale, estate sale or yard sale more than six days in any one calendar year is a secondhand dealer and is required to be licensed as provided in this Ordinance.
- B. "Person" means natural person, co-partnership, Limited Liability Company (LLC), corporation or similar entity.
- C. "Secondhand Dealer" means any person engaged in the business of buying, selling, trading or otherwise dealing in secondhand goods where any such transactions are initiated, conducted or concluded at the Secondhand Dealer's place of business, either as a separate venture or incidental to another business. The term secondhand dealer does not include the following:
1. A person solely engaged in the business of buying and selling used vehicles that are required to be registered by the Department of Transportation.
 2. Any person who sells, on an incidental basis, secondhand merchandise taken in trade by that dealer for new merchandise.
 3. Any person who deals exclusively with the buying and selling of used clothing, used furniture and/or used books.
 4. A person conducting a "garage sale" "estate sale" or "yard sale," except as stated above.
 5. A pawnbroker as defined in ORS 726.010.
 6. A person who buys for resale, secondhand goods solely as part of estate sales or auctions, provided the person shall keep and maintain records or receipts sufficient to prove the secondhand goods were purchased from a legitimate estate sale or auction, including the date and specific location of the estate sale or auction and shall present such proof to a police officer upon request.
 7. A person who receives secondhand goods solely by donation for charitable purposes.
- D. "Detailed Identifying Description" means a description sufficient so that a reasonable person is clearly able to know the type of item, the make, model, size if known or applicable and any specific markings or other characteristic of the item or items.
- E. "Pledge" means any article deposited with a secondhand dealer.

- F. "Official Photographic Identification" means a current photographic drivers license from any state or an official photographic Oregon Identification Card issued by the Department of Motor Vehicles.
- G. "Place of Business" means the location regularly used or advertised to be used by a person for the conducting of business.
- H. "Secondhand Goods" means:
1. Sterling silver including but not limited to: flatware, candle holders, coffee and tea sets, or ornamental objects.
 2. Jewelry, gem and coin - any jewelry, gem or coin that is valued for its character, rarity, beauty, quality or antiquity including diamonds, rubies, emeralds, sapphires and pearls, whether as a separate item or in combination with a precious metal such as gold or silver as a piece of jewelry.
 3. Audio equipment including but not limited to: tape players, tape decks or players, compact or digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, compact discs, clock radios, car stereos, car speakers, radar detectors, or citizen band radios/transceivers.
 4. Video equipment including but not limited to: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors.
 5. Photographic and optical equipment including but not limited to: camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment.
 6. Electronic equipment including but not limited to: facsimile machines, laser printers copiers, duplicators, typewriters, calculators, cash registers, transcribers, Dictaphones, computers, home computers, video games, modems, monitors, or any computer equipment or accessories.
 7. Power equipment and tools including but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment.
 8. Hand tools including but not limited to: wrench sets, saws, sockets sets, screw driver sets, pliers, vise grips, toolboxes, auto body hammers, jacks, or timing lights.
 9. Musical instruments including but not limited to: pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, or electronic synthesizers.
 10. Electrical household appliances including but not limited to: sewing machines, microwaves and air conditioners.
 11. Firearms including but not limited to: rifles, shotguns, hand guns, revolvers, pellet guns, or BB guns.

12. Telephones or telephone equipment, including but not limited to; office telephone, portable home telephones, mobile telephones, cellular telephones, or answering machines.
13. Sporting goods including but not limited to; golf clubs, racquets, bow hunting equipment, knives, camping gear, weight or exercise equipment.
14. Bicycles, scooters and carts.
15. Clocks and watches.

Section 2. License--Required.

No person shall engage in any business as a secondhand dealer or assist in the conducting of any such business, without first obtaining a license as required by this Ordinance. Each license pursuant to this Ordinance shall be valid for one calendar year from the date of issue.

Section 3. License—Application—Requirements.

An applicant for a license required by this Ordinance shall submit in writing to the Chief of Police or his designate the following:

- A. The name, description, date of birth, Social Security Number, driver's license number, residence and a recent photograph of the applicant or, if the applicant is a corporation, firm or other legal business entity, the names, descriptions, dates of birth, drivers license numbers, Social Security Numbers, residences and recent photographs of the operator(s), officer(s), member(s) and director(s) thereof.
- B. The specific place of business for which the license is desired.

Section 4. License—Fee.

There shall be a fee required for all those required to obtain and maintain a license under the provisions of this Ordinance. The fee amount shall be established by resolution of the Sweet Home City Council.

Section 5. License—Application—Investigation—Grounds for denial or revocation.

The Chief of Police shall cause an investigation to be made to determine whether the person(s) required by Sections 2 and 3 to submit information to the Chief of Police meet all the requirements of this ordinance. The license shall be denied or revoked by the Chief of Police if the Chief of Police determines that:

- A. The said person(s) has been convicted of a felony, excluding Driving While Revoked or any Class "A" Misdemeanor involving fraud, theft or deception within a 15-year period prior to application.
- B. The applicant has presented any false or misleading information in making application for the license.

Section 6. License—Nontransferability.

No license issued as provided in this Ordinance shall be transferred or assigned.

Section 7. License—Display.

It shall be the duty of every person to whom a license is issued, as provided in this Ordinance, to display such license in a conspicuous manner in the public area of the place of business to which the license relates.

Section 8. Record—Required—Inspection.

Every secondhand dealer shall keep a record of each purchase and/or acceptance transaction of secondhand goods, which is initiated, conducted or concluded at the Secondhand Dealer's place of business. Each such transaction shall record in permanent ink:

- A. The date of the transaction.
- B. The serial number, if applicable, of the property purchased, sold or taken as a pledge.
- C. Name and address of the seller, pledgor and if the sale or pledge is made by a person acting as agent for a disclosed principal, the name and address of principal and agent.
- D. A Detailed Identifying Description of the article or articles purchased, pledged or held.
- E. The amount of the purchase or pledge loan.

All records of purchase shall be made legible in the English language and shall be open to the inspection of any public official, police officer, or any other person who is duly authorized or empowered by the laws of the State, County or City to make such inspection.

Every secondhand dealer shall maintain an alphabetical file from which can be determined the total sales or obligations of any one seller or pledgor.

All records shall be preserved and available for at least two years after making the final entry of any sale or pledge loan recorded therein.

Section 9. Transactions Prohibited.

- A. No person licensed under this Ordinance or his agent shall purchase or receive any item from a minor unless the parent or legal guardian accompanies such person, nor shall a person receive or acquire any items from any person under the influence of alcohol or drugs.
- B. No person licensed under this Ordinance or his agent shall purchase and/or accept any item of pledge from any person who does not have in his/her possession and display valid official photographic identification. The secondhand dealer shall photocopy said photographic identification and maintain the copy as part of the transaction record.
- C. No person licensed under this Ordinance or his agent shall purchase or receive any item from which the serial number or any maker's identification marking or owner identification marking has been obliterated, altered or removed.

Section 10. Reports Required.

In addition to the records required under Section 8, a secondhand dealer shall record on a form approved by the Chief of Police, for each transaction which is initiated, conducted or concluded at the Secondhand Dealer's place of business, the date, the name and the address of the seller or pledgor, the type and identification number of the official photographic identification presented by the seller or pledgor pursuant to Section 8, a physical description of the seller or pledgor and a complete identifying description of the article pledged or sold. Every secondhand dealer shall each Tuesday, deliver, either in person, via facsimile or via first class mail and postmarked no later than said Tuesday, to the Chief of Police or designee a true, legible and accurate copy of the above record of each purchase transaction which occurred from the time of the previously submitted record.

No property purchased or received shall be sold for a period of fifteen (15) business days. Such property shall be maintained in substantially the same form as purchased and shall not be commingled so as to preclude identification during the fifteen (15) day holding period. The person purchasing the property shall affix, as soon as practicable, to the property a tag upon which the number shall correspond to the number on the record forms required to be kept and submitted under the provisions of this ordinance.

Section 11 Cooperation with Law Enforcement

Every secondhand dealer and any agent or employee thereof shall cooperate with any law enforcement officer acting in an official capacity and will:

- A. Immediately present to the Law Enforcement Officer for inspection or seizure any record, video or audio recording of a transaction or any item of purchase or pledge, which, in the judgment of the Law Enforcement Officer, may constitute evidence of a criminal act.
- B. Appear in a court of law in answer to any subpoena arising out of the operation of the business.

Section 12. Revocation of License

The Chief of Police may revoke any license under this Ordinance if the Chief finds that:

- A. The secondhand dealer has failed to pay the annual license fee or to comply with any demand, ruling or requirement of the Chief or designee lawfully made pursuant to and within the authority of this ordinance;
- B. The secondhand dealer has violated any provision of this ordinance or any rule or regulation lawfully made by the Chief or designee under and within the authority of this ordinance; or
- C. Any fact or condition exists which, if it had existed at the time of the original or renewal application for a license, would have warranted the Chief in refusing originally to issue the license.

Section 13. License Denial Procedures; Review of Orders.

Where the Chief of Police proposes to refuse to issue or renew a license, or proposes to revoke a license, the Chief shall notify the Secondhand Dealer in writing of the proposed denial or revocation. The Secondhand Dealer may, within ten (10) days of mailing of said notice request, in writing, a hearing to contest the denial or revocation. Opportunity for a hearing shall be accorded by following the procedures set forth in ORS 183.415. Judicial review of orders under this section shall be to the Sweet Home Municipal Court and filed therewith within 30 days of the Order, once it becomes final. The reviewing Court cannot substitute its judgment for that of the hearing officer that decided a contested case. The Court must however set aside or remand a decision if it is not supported by substantial evidence in the record.

Section 14. Reinstatement and Reissue of License: Fee.

The Chief of Police may reinstate or issue a new license to a secondhand dealer whose license has been revoked, upon the secondhand dealer's compliance with the provisions of law or any demand, ruling or requirement lawfully made by the Chief pursuant to and within the authority of this ordinance. For such reinstatement or issuance of a new license, a fee as set by Resolution shall be paid.

Section 15. Preexisting Secondhand Dealers

Any Secondhand Dealer in operation at the time of the first reading of this ordinance shall not be denied a license solely for the reasons set forth in Section 5 (A), provided such conviction was prior to the date of the first reading of this ordinance.

Section 16. Violation—Penalty.

A violation, or participation in the violation, of this ordinance by any secondhand dealer or any director, agent, member, officer or employee thereof, or any other person is punishable, upon conviction by a fine of not more than \$500.00 or by imprisonment in jail of not more than six months, or both.

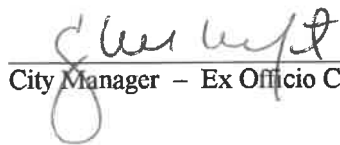
Upon conviction under subsection (1) of this section, no license shall be granted to such person, nor to the husband or wife of such person, nor to any partnership, association, LLC, corporation or similar entity of which the person is an officer, director, member, employee or agent, until two years after the date of conviction. The City may waive this provision only for the first conviction under subsection (1).

PASSED by the Council and approved by the Mayor this 28th day of October, 2003.



Mayor

ATTEST:



City Manager – Ex Officio City Recorder