



# CITY OF BEAVERTON

## CITY ORDINANCES

ORDINANCE #3774 - CODE - AMENDS BC BY ADDING NEW PROVISIONS

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TO 7.10.005-7.10.065, "SECOND HAND DEALERS"

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NUMBER OF PAGES 13

ORDINANCE NO. 3774

AN ORDINANCE AMENDING THE BEAVERTON CODE BY ADDING A NEW PROVISION, BC 7.10.005 - 7.10.065, "SECOND HAND DEALERS," FOR THE PURPOSE OF REGULATING THE PURCHASE OF USED PROPERTY BY CERTAIN BUSINESSES.

**WHEREAS**, the intentional purchase of stolen property by a few disreputable businesses allows for the concealment of much criminal conduct involving the theft of personal property; and

**WHEREAS**, a significant risk of inadvertently purchasing stolen property remains present despite the best efforts of legitimate businesses to otherwise control the risk and not become involved in purchasing stolen property; and

**WHEREAS**, a system regulating the manner of purchasing used property should facilitate the return of stolen property to the property's true owner and apprehending those who knowingly engage in criminal conduct; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

BC 7.10.005 - 7.10.065, "Second-Hand Dealers" is hereby added to the Beaverton Code to read as follows:

## "SECOND HAND DEALERS

"7.10.005 Short Title. BC 7.10.005 - .065 shall be known and may be cited as the 'Second-Hand Dealer Ordinance' and also may be referred to herein as 'this ordinance.'

"7.10.010 Purpose. This ordinance regulates the purchase of used property by certain businesses. This activity presents an extraordinary risk of misuse to conceal criminal conduct involving the theft of personal property. The risk of misuse is present despite the best efforts of legitimate businesses to otherwise control the risk.

"7.10.015 Definitions. For the purpose of this ordinance, the following mean:

### Acceptable Identification - Either:

A. a current driver's license that includes the date of birth, photograph, and physical description of the person offering the identification; or

B. two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

Application Date - The date the City receives the required application fee from an applicant for a second-hand dealer permit.

Business - A shop, store, enterprise, profession, activity, establishment or undertaking of any nature conducted directly or indirectly for private profit or benefit and as a substantial means of a person's livelihood. The term is not meant to include the activity of any federal, state or local government or governmental subdivision or agency, or of any organization exempt from taxation under section 501 (c)(3) of the Internal Revenue Code.

Gross Business Income - The amount of gross receipts or sales less returns and allowances a business has.

Occasional Second-Hand Dealer - A person who establishes with clear and convincing evidence either of the following:

A. the second-hand business the person helps own, manage or operate purchases fewer than 100 items of regulated property in a calendar year; or

B. the second-hand business the person helps own, manage or operate earns less than 50% of its gross business income from the sale of regulated property.

Person - Any individual, partnership, corporation or association.

Police Chief - The Chief of Police of the City of Beaverton or the Police Chief's designee.

Purchase - The acquisition of or the act of acquiring title to property by a buyer in exchange for valuable consideration given to the seller. The term is not meant to include a:

A. Trade-in, by which a seller acquires title to property as payment or part payment for the purchase of new or used merchandise;

B. Bailment for sale, by which a seller consigns property to another for sale;

C. Pledge loan, by which a pawn broker licensed by the State of Oregon lends money secured by a pledge; or

D. The acquisition of a security interest, by which a person acquires an interest in property to secure payment or performance of an obligation.

Regular Second-Hand Dealer - A person who purchases regulated property while carrying on a business and who does not qualify as an occasional second-hand dealer under this ordinance.

Regulated Property - The following used property:

A. Precious metals, including but not limited to, any metal valued for its character, rarity, beauty or quality, including gold, silver, platinum or other metals, whether as a separate item or in combination with other items.

B. Precious gems, including but not limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semi-precious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.

C. Watches and jewelry containing precious metals or precious gems, including but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches.

D. Flatware, including but not limited to, knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.

E. Audio equipment, including but not limited to tape players, tape decks or players, compact/digital disc players, sound metering devices, turners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speakers, radar detectors, or citizen band radios/transceivers.

F. Video equipment, including but not limited to, televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors.

G. Photographic and optical equipment, including but not limited to, cameras, camera lenses, camera filters, camera motor drives, camcorders, 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.

H. Electrical office equipment, including but not limited to, telefacsimile machines, word processors, printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, or any computer equipment, accessories, or components.

I. Power yard and garden tools, including but not limited to, garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, or blowers.

J. Power equipment and tools, including but not limited to, air hammers, air tools, nail guns, power staplers, power saws, power sanders, chain saws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment.

K. Automotive hand tools, including but not limited to, wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, or timing lights.

L. Telephones or telephone equipment, including but not limited to, office telephones, portable home telephones, mobile telephones, cellular telephones, or answering machines.

M. Musical instruments, including but not limited to, pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, or electronic synthesizers.

N. Firearms, including but not limited to, rifles, shotguns, hand guns, revolvers, pellet guns, or BB guns.

O. Sporting equipment, including but not limited to wet suits, dry suits, water skis, scuba tanks, bicycles, golf clubs, tennis rackets, snow skis, ski boots or ski poles.

P. Outboard motors, including but not limited to props or outdrives.

Q. The term "regulated property" is not intended to include the following:

1. Vehicles required to be registered with the Oregon Motor Vehicles Division;
2. Boats required to be certified by the Oregon Marine Board;
3. Books or computer software;
4. Dishware or glassware;
5. Household furniture;
6. Stoves, ovens, freezers, refrigerators, dish washers, trash compactors, clothes washers or dryers;
7. Clothes;
8. Money or stamps authorized or adopted by a domestic or foreign government;
9. Gold or silver bullion bars that are .995 fine or better;
10. Sport cards or comic books.

Second-Hand Dealer Permit - The permit issued to a second-hand dealer pursuant to this ordinance.

Second-Hand Business - A business that purchases regulated property.

Second-Hand Dealer - Both regular second-hand dealers and occasional second-hand dealers.

Transaction - The purchase of regulated property. There are as many transactions in a single purchase as the number of items acquired by the buyer from the purchase.

Used - Previously owned, consumed or put into service by a person other than the manufacturer or the manufacturer's dealer or agency.

"7.10.020 Permit Required.

A. No second-hand dealer shall carry on a second-hand business without a second-hand dealer permit.

B. A second-hand dealer engaged in a second-hand business on or before the effective date of this ordinance who intends to continue that business after the effective date of this ordinance shall apply for a second-hand dealer permit within 30 days of the effective date of this ordinance. If the second-hand dealer submits the application within the 30 days, the dealer may continue to purchase regulated property without a second-hand dealer permit until such permit is issued or denied.

"7.10.025 Fee. Every applicant for a second-hand dealer permit shall pay a fee in an amount set by Council resolution.

"7.10.030 Application Process. A second-hand dealer shall apply for a second-hand dealer permit in the following manner:

A. The City shall make available an application form for second-hand dealer permits.

B. The application form may require all second-hand dealers to supply the following information:

1. The name, address, telephone number, social security number and date of birth of the person applying for the permit.

2. The name of the second-hand business in whose name the permit should be issued if the application is approved.

3. The mailing address of the second-hand business and, if different from its mailing address, the location where the business is to be conducted in the City.

4. An estimate of the total number of transactions the applicant expects the second-hand business to complete in the next calendar year and an estimate of the percent of total gross business income the applicant expects the business to earn from the sale of regulated property.

5. Whether the applicant or any other person who helps own, manage or operate the second-hand business ever has been engaged in a similar business; whether any permit similar to the one applicant seeks pursuant to this ordinance ever has been issued to the applicant or any person who helps own, manage or operate the second-hand business; whether any such permit so issued ever has been suspended or revoked.

6. Such other information that the Police Chief may reasonably and lawfully require, including the fingerprints and a photograph of the applicant or any other person who will help own, manage or operate the second-hand business.

C. The application form may require all regular second-hand dealers to supply the following information. This information is in addition to the information listed in subsection (B) of this section.

1. The name, address, phone number, social security number, date of birth and principal occupation of the applicant and any other person who helps own, manage or operate the second-hand business.

2. The past five years of employment history of the applicant and any other person who helps own, manage or operate the second-hand business.

3. A description of the property interest held by any person with an interest in the applicant's second-hand business.

4. The name, address and phone number of each person who has loaned money or other property to the applicant for the applicant's second-hand business.

5. Any criminal arrest or conviction the applicant or any other person who helps own, manage or operate the second-hand business has had in the past 15 years. The applicant may be required to disclose where, when and the nature of any arrest or conviction.

6. A list of the businesses in which the applicant or any person who helps own, manage, or operate the second-hand business has an interest. A person need not disclose stock ownership in publicly traded corporations if the person owns less than five-percent of the publicly traded corporation's outstanding shares.

D. The applicant shall complete the relevant portions of the application form and return it to the City. At the time the applicant submits the completed application, the applicant shall pay a fee to the City in an amount determined under Council resolution. The Police Chief shall be responsible for reviewing an application after the applicant has paid the fee.

"7.10.035 Issuance, Renewal or Revocation of Permit.

A. The Police Chief shall deny an application for a permit or revoke an issued permit if the Police Chief

has probable cause to believe any of the following conditions exist:

1. The applicant, or any person who will help own, manage or operate the second-hand business, has owned or operated a second-hand business regulated under this ordinance or any substantially similar ordinance and, within the five years prior to the application date:

(a) has had a second-hand business permit revoked for a reason that would be grounds for a denial or revocation pursuant this ordinance; or

(b) the second-hand business has been found to constitute a public nuisance.

2. The applicant, or any person who will help own, manage or operate the second-hand business, has been convicted of a felony or any crime involving a false statement or dishonesty within 15 years prior to the application date.

3. The applicant has:

(a) knowingly made a false statement in the application;

(b) knowingly omitted information requested to be disclosed in the application; or

(c) completed the application with reckless disregard for the truth or accuracy of the statements made therein.

4. A lawful inspection of the second-hand business premises by the Police Chief has been unjustifiably refused by a person who helps own, manage or operate the business.

5. The second-hand business, the applicant or any person who will help own, manage or operate the second-hand business, has more than ten violations of this ordinance, the Beaverton Code, any State or Federal law, or any combination thereof within a two-year period, including the two years prior to the application date.

6. There is clear and convincing evidence of substantially more criminal activity within 500 feet of the second-hand business as compared to other similar businesses located in the City.

B. Notwithstanding the requirements of subsection (A) of this section, the Police Chief may grant or not revoke a second-hand dealer permit despite grounds for denial or revocation if the Police Chief concludes that the applicant has established more likely than not that the basis for denial or revocation:

1. Is unlikely to recur;

2. Is remote in time; or

3. Is not reasonably related to the purpose of this ordinance.

C. If the Police Chief approves an application for a second-hand dealer permit, a permit shall be issued in the name of the second-hand business for the



location specified by the applicant in the application form. The permit shall be non-transferable and valid for one year from the date of issue. The permit shall be clearly displayed at the second-hand business in a manner readily visible to the business's customers.

D. If the Police Chief denies an application for a second-hand dealer permit or orders the revocation of an issued second-hand dealer permit, the provisions of B.C. 2.05.050 - .066 shall govern the procedures and rights of the parties. The term "revocation" as found in B.C. 2.05.050 - .066 shall be interpreted for the purpose of this ordinance to mean revocation of a second-hand dealer permit or denial of an application for a second-hand dealer permit. The term "licensee" as found in B.C. 2.05.050 - .066 shall be interpreted for the purpose of this ordinance to mean second-hand dealer or applicant for a second-hand dealer permit.

E. If the Police Chief denies an application for a second-hand dealer permit, half the fee paid for the permit shall be refunded to the applicant. If the Police Chief revokes an issued permit, no part of the fee shall be refunded.

"7.10.040 Change of Place of Business. A second-hand dealer permit is valid only at the location printed on the permit. Whenever a second-hand business changes its location within the City, the business shall give written notice to the Police Chief and shall surrender its current second-hand dealer permit for cancellation. A new permit shall be issued to the business upon payment to the City of a fee determined under Council resolution. The newly-issued permit shall be valid only for the balance of the term remaining under the old permit.

"7.10.045 Dealer Recordkeeping.

A. The Police Chief shall design a purchase report form and make copies available to all second-hand dealers. These forms, or any other substantially similar form approved by the Police Chief, shall be utilized to record purchases of regulated property by second-hand dealers. The form may request any information reasonably calculated to help the Police Chief identify the purchaser, the seller or the property associated with the purchase of regulated property.

B. Whenever a regular second-hand dealer purchases regulated property for business purposes, the dealer shall obtain acceptable identification from the seller along with the seller's current residence address. The dealer shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form required to be filled out by this section shall be filled out in legible

English. The seller shall sign his or her name on the filled-out form. The dealer shall also photograph the seller of the regulated property. The photograph shall show the face and shoulders of the seller. The seller shall not be photographed wearing any head-covering, dark glasses or similar object that obscures the seller's facial features. Untinted eye glasses may be worn by the seller when photographed.

C. Whenever an occasional second-hand dealer purchases regulated property for business purposes while at or near the premises of the second-hand business, the dealer shall obtain acceptable identification from the seller along with the seller's current residence address. The dealer shall fill out a purchase report form in all relevant aspects at the time of the purchase, except that the dealer may omit to record the purchase of an item for which the dealer pays \$20 or less. If, in a single transaction, no item purchased by an occasional second-hand dealer costs more than \$20, the dealer is excused from filling out any purchase report form regarding the transaction. A purchase report form required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled-out form.

D. If an occasional second-hand dealer purchases regulated property for business purposes while not at or near the premises of the second-hand business, the dealer need not obtain acceptable identification or the current residence address from the seller. The occasional second-hand dealer shall nevertheless fill out a purchase report form at or near the time of the purchase if otherwise required under subsection (C) of this section. In lieu of the seller identification information required by the form, the dealer shall record the place of the purchase.

E. Every article of regulated property purchased by a second-hand dealer and required to be recorded on a purchase report form shall be assigned a unique number, letter, symbol or other identification mark. This unique mark shall appear both on the purchase report form and, while the article is possessed by the second-hand dealer, on the article itself.

F. The original of every purchase report form completed on a given day shall be mailed or delivered to the Police Chief within seven days. A completed purchase report form shall be treated by the City as a confidential document, exempt from public disclosure to the maximum extent allowed under state or federal law.

"7.10.050 Holding Periods.

A. A copy of every purchase report form filled out and every photograph taken as required by this ordinance shall be kept on the premises of the second-hand business during normal business hours for

at least one year from the date of purchase. The report form and the photograph shall be subject to inspection by the Police Chief pursuant to section 7.10.055 of this ordinance.

B. All regulated property purchased by a second-hand dealer and required to be recorded on a purchase report form shall be held by the dealer for at least 25 days from the date of purchase. The dealer shall maintain the property in substantially the same form as when purchased and shall not alter, exchange or commingle the property. During the holding period the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Police Chief.

C. All regulated property that has an altered, obstructed or removed serial number, inscription or other identifying mark and that is purchased by a second-hand dealer and is required to be recorded on a purchase report form, shall be held by the second-hand dealer for at least 90 days from the date of purchase. The property shall be maintained in the same manner and place as required under subsection (B) of this section

D. The Police Chief may give written notice to a second-hand dealer holding regulated property that the Police Chief has reasonable grounds to believe more likely than not a specific item of regulated property is associated with criminal conduct. The second-hand business holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under subsection (B) of this section until released by the Police Chief.

E. The holding period for any item of regulated property shall not exceed 180 days from the date of purchase.

F. If unreasonable hardship will result from holding regulated property as required under this section, the second-hand dealer may request in writing that the Police Chief shorten the length of the holding period. The request should identify the property to which the request relates and state the reason extreme hardship will result if the holding period is not shortened. The Police Chief may grant a request to shorten the length of the holding period if the second-hand dealer establishes clear and convincing grounds to believe that undue hardship will occur if the request is not granted. If the Police Chief decides relief from the holding period is appropriate, the Police Chief shall provide the second-hand dealer who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The authorization shall be effective only upon delivery of the written authorization to the second-hand dealer.

"7.10.055 Inspection of Property and Records.

A. Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the Police Chief has reasonable grounds to believe more likely than not that a specific item of regulated property held by a second-hand dealer is associated with criminal conduct, the Police Chief may enter the premises of the second-hand business at any reasonable time, provided that the premises are occupied at the time of entry and the Police Chief presents proper official identification at or near the time of demanding entry. If entry is refused, the Police Chief shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.

B. Authority to inspect second-hand business premises under this ordinance is in addition to and not in limitation of the authority the City or the Police Chief would otherwise have to enter the business premises.

C. Once allowed to enter the premises of the second-hand business, the Police Chief may inspect property kept there. The Police Chief may also inspect the business records associated with regulated property and perform any duty imposed upon the City or the Police Chief by this ordinance.

"7.10.060 Penalty.

A. Violation of a provision of this ordinance by a person constitutes a Class I civil infraction to be processed in accordance with the provisions of BC 2.10.010 - .050.

B. Violation of a provision of this ordinance by a person who helps own, manage or operate a second-hand business shall be grounds to revoke any second-hand dealer permit issued to that second-hand business.

C. Violation of a provision of this ordinance by a person shall constitute a public nuisance subject to abatement in accordance with the provisions of BC 5.05.200 - .230.

D. A finding that a person has committed a violation of this ordinance shall not act to relieve the person from the provisions of this ordinance.

E. The penalties imposed by this section for violation of this ordinance are in addition to and not in limitation of any other action or claim available to the City or any other governmental jurisdiction.

"7.10.065 Council Review.

A. Subsections 7.10.045(C) and (D) of this ordinance, relating to the recordkeeping requirements of occasional second-hand dealers, are repealed on September 1, 1992.

B. The Police Chief shall prepare and submit to Council on or before August 1, 1992, a report regarding the effectiveness of this ordinance. The report shall include information about the impact this ordinance has relating to occasional second-hand dealers. The report may contain the Police Chief's recommendations to increase the fairness, efficiency and effectiveness of this ordinance."

First reading this 20<sup>th</sup> day of May, 1991.

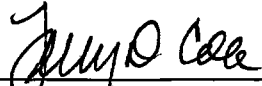
Passed by the Council this 24<sup>th</sup> day of June, 1991.

Approved by the Mayor this 27<sup>th</sup> day of JUNE, 1991.

ATTEST:

APPROVED:

  
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ANN L. JOHNSON, City Recorder

  
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LARRY D. COLE, Mayor