

**AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER  
7.10 RELATING TO SECONDHAND DEALERS**

**Whereas**, secondhand dealers regularly assist police officers in identifying potential criminal conduct involving the theft of personal property when they submit reports to the police department regarding items they acquire that are frequently the subject of theft; and

**Whereas**, this ordinance regulates when and how secondhand dealers submit reports to the police department regarding items frequently the subject of theft; and

**Whereas**, since 1992, this ordinance has remained largely intact since its enactment; and

**Whereas**, this ordinance should be updated to reflect the changing technologies that have come about since 1992 to allow police officers to receive more timely reports from secondhand dealers regarding items acquired that are frequently the subject of theft.

Now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Beaverton Code Chapter 7.10 is amended to read as follows:

**7.10.005 Short Title.**

BC 7.10.005 through 7.10.065 shall be known and may be cited as the "Secondhand Dealer Ordinance" and also may be referred to herein as "this ordinance."

**7.10.010 Purpose.**

This ordinance regulates the acquisition 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. This ordinance is intended to reduce this risk by providing timely police awareness about potentially criminal conduct and by regulating businesses that may encounter these activities.

**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 forms 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 secondhand dealer permit.

Acquire – To take or transfer any interest in personal property in a voluntary transaction, including but not limited to sales, trade-ins, and loans.

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.

Occasional Secondhand Dealer – A person who owns, helps manage or operates a secondhand business that acquires fewer than 100 items of regulated property in a calendar year.

Owner – A person who has a right of possession to an item of property superior to that of the seller.

Pawnbroker – Any business required by ORS 726.040 to hold an Oregon pawnbroker's license.

Person – See BC 1.01.020 ("Person").

Personal Property – Any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, chose in action, and evidence of debt or of contract.

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

Police Department – The Beaverton Police Department.

Regular Secondhand Dealer – A person who acquires regulated property while carrying on a business and who does not qualify as an occasional secondhand dealer under this ordinance.

Regulated Property – Property of a type that is determined by the Police Chief to frequently be the subject of theft and is included in a list published by the Police Chief as part of the Police Department's administrative rules for this ordinance.

Secondhand Dealer Permit – The permit issued to a secondhand dealer pursuant to this ordinance.

Secondhand Business – A business that acquires regulated property.

Secondhand Dealer – Both regular secondhand dealers and occasional secondhand dealers.

Seller – Any person who:

A. Offers items of regulated property in exchange for money or other property, or as collateral for a loan; or

B. Donates or abandons items of regulated property.

Transaction – The acquisition of regulated property.

Transaction Report Form – The form required by BC 7.10.045(A).

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

#### **7.10.017 Unauthorized Sale of Property.**

No person shall sell or attempt to sell personal property to a secondhand dealer without the consent of the property's owner.

#### **7.10.018 Notice.**

A. A regular secondhand dealer shall post a notice substantially similar to that set forth in BC 7.10.018(B) in the manner and at the locations described in BC 7.10.018(C). The size of the notice shall be no smaller than eight and one-half inches by eleven inches with lettering no smaller than one-fourth of an inch in height.

B. The notice shall be worded substantially as follows:

NOTICE

The sale or attempted sale of property to a secondhand dealer without consent of the property's owner is punishable by a civil penalty not to exceed \$500 per item.

Do not sell property without the consent of the property's owner. You will be held strictly liable for any violations of this law.

C. Every copy of the notice required to be posted under this section shall be posted in a manner reasonably calculated to provide patrons actual knowledge of the contents of the notice. A copy of the notice shall be posted:

1. Outside each point of entry intended for patron use; and
2. At or near each place where a regular secondhand dealer acquires used personal property in the regular course of business.

D. If a significant number of the patrons of the regular secondhand dealer use a language other than English as a primary language, the notice shall be in English and the primary language or languages of the patrons.

**7.10.020 Permit Required.**

A. No secondhand dealer shall engage in, conduct, or carry on a secondhand business without a secondhand dealer permit. The secondhand dealer permit shall contain the address where it is valid.

B. If a secondhand dealer has an additional business location in the City, then the secondhand dealer must file an application for another secondhand dealer permit and pay an additional fee for that additional business location. Secondhand dealer permits issued for additional business locations are subject to all the requirements of this ordinance. The term of the permit issued for a subsequent or additional business location will expire on the same date as the initial permit.

**7.10.025 Fee.**

Every applicant for a secondhand dealer permit shall pay a fee to the City in an amount set by Council resolution.

**7.10.030 Application for Permit.**

A second-hand dealer shall apply for a secondhand dealer permit in the following manner:

A. The City shall supply an application form for secondhand dealer permits.

B. The City may require that all secondhand dealers provide the following information on the application form:

1. The name, mailing address, email address, telephone number, social security number and date of birth of the person applying for the permit.
2. The name of the secondhand business in whose name the secondhand dealer permit should be issued if the application is approved.
3. The mailing address of the secondhand business and, if different from its mailing address, the physical location where the business is to be conducted in the City.
4. The web address of any and all web pages used to acquire or offer for sale regulated property on behalf of the secondhand business, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the secondhand business.
5. An estimate of the total number of transactions the applicant expects the secondhand business to complete in the next calendar year.
6. Whether the applicant or any other person who owns, helps manage or operates the secondhand business ever has been engaged in a similar business; whether any permit similar to the one applicant seeks ever has been issued to the applicant or any person who owns, helps manage or operates the secondhand business; whether any such permit so issued ever has been suspended or revoked.
7. 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 own, help manage or operate the secondhand business.

C. The City may require that all regular secondhand dealers supply the following information on the application form. This information is in addition to the information listed in BC 7.10.030(B) of this section.

1. The name, mailing address, telephone number, social security number, date of birth and principal occupation of the applicant and any other person who owns, helps manage or operates the secondhand business.
2. The past five years of employment history of the applicant and any other person who owns, helps manage or operates the secondhand business.
3. A description of the property interest held by any person with an interest in the applicant's secondhand 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 secondhand business.
5. Any criminal arrest or conviction the applicant or any other person who owns, helps manage or operates the secondhand 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 secondhand 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 and submit a completed application form to the City that includes all information required by the City. At the time the applicant submits the completed application, the applicant shall pay a fee as required in BC 7.10.025.

**7.10.035 Issuance and Renewal of Permit.**

A. The Police Chief shall review the application after the applicant has submitted a completed application and paid the fee as required under BC 7.10.025. The scope of the Police Chief's review may include any matter reasonably related to the standards and criteria set forth in this ordinance or state law relating to the issuance of the type of secondhand dealer permit for which a person has applied. The Police Chief may conduct criminal history background checks in conjunction with the review. If no grounds for denial exists, the Police Chief shall issue a secondhand dealer permit within 90 days of receiving the application.

B. Except as provided in BC 7.10.035(C), the Police Chief shall deny an application for a permit if the Police Chief has probable cause to believe any of the following conditions exist:

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

a. has had a secondhand business permit revoked for a reason that would be grounds for a denial or revocation pursuant this ordinance; or

b. the secondhand business has been found to constitute a public nuisance.

2. The applicant, or any person who owns, or will help manage or operate the secondhand 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 person who owns, manages or operates the business unjustifiably refused the Police Chief from lawfully inspecting the secondhand business premises.

5. The secondhand business, the applicant, or any person who owns, manages or operates the secondhand business, has committed more than ten violations of this ordinance, the Beaverton Code, any State or Federal law, or any combination thereof within the prior twenty-four months.

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

C. Notwithstanding the requirements of subsection (B) of this section, the Police Chief may grant a secondhand dealer permit despite grounds for denial if the Police Chief concludes that the applicant has established more likely than not that the basis for denial:

1. Is unlikely to recur;
2. Is remote in time; or
3. Is not reasonably related to the purpose of this ordinance.

D. If the Police Chief approves an application for a secondhand dealer permit, a permit shall be issued in the name of the secondhand business for the physical location specified by the applicant in the application form. The secondhand dealer permit is non-transferable and valid for one year from the date of issue. The permit shall be clearly displayed at the secondhand business in a manner readily visible to the secondhand business's patrons.

E. If the Police Chief denies an application for a secondhand dealer permit, the Police Chief shall give the applicant written notice of the denial and refund half the fee paid for the permit to the applicant.

**7.10.040 Change of Place of Business.**

A secondhand dealer permit is valid only at the location printed on the permit. Whenever a secondhand business changes its location within the city, the business shall give written notice to the Police Chief and shall surrender its current secondhand 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 of Regulated Property.**

A. Secondhand dealers shall provide the Police Department with all information required by this section. The Police Chief shall require all secondhand dealers to complete a transaction report form to record their transaction. The transaction report form may request any information



reasonably calculated to help the Police Chief identify the purchaser, the seller or the property associated with the transaction.

B. The Police Chief may designate the format for the transfer of information required in BC 7.10.045(A) and may direct that the information be provided to the Police Department by means of mail, the internet, or other computer media.

1. If the Police Chief directs that information be transmitted via the internet or computer media for all secondhand dealers, then the Police Chief shall require that a specific database system be used in order to ensure conformity among all secondhand dealers.

2. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Police Chief alters the required format, secondhand dealers will be provided at least 60 days to comply with the new format requirements. If a secondhand dealer is unable to implement the reporting system before the deadline, then the secondhand dealer shall submit a written request for additional time to the Police Chief before the deadline. The Police Chief may deny or approve the request depending on the reason for the request for additional time.

3. Secondhand dealers that are pawnbrokers only need to report new transactions.

C. Whenever a regular or occasional secondhand dealer acquires regulated property, the dealer shall obtain acceptable identification from the seller along with the seller's current residence address.

D. A secondhand dealer shall complete a transaction report form at the time of the transaction. The seller shall sign his or her name on the completed form and declare that he or she is the owner on a Declaration of Proof of Ownership form prescribed by the City. The secondhand dealer shall also take a photograph of the seller of the regulated property or take a photograph of the seller's acceptable identification. 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. The seller may wear untinted eye glasses when photographed. The seller shall also provide a legible thumbprint on the transaction report form. The thumbprint shall be of the thumb of the right hand, unless the thumbprint is impractical to obtain. If the right-hand thumbprint is impractical to obtain, the seller shall provide a legible

thumbprint of the left hand. If the seller cannot provide a thumbprint, then the secondhand dealer shall note the reason on the transaction report form.

E. If a secondhand dealer is required to record an acquisition of regulated property from a seller on a transaction report form, then the secondhand dealer shall assign a unique number, letter, symbol or identification mark on each article of regulated property. This unique number, letter, symbol or identification mark shall appear both on the transaction report form and, while the article is possessed by the secondhand dealer, on the article itself. The secondhand dealer shall also take a photograph of the regulated property at the time of the transaction and attach that photograph to the transaction report form.

F. Secondhand dealers shall mail or deliver to the Police Chief the original of every transaction report form completed on a given day at the end of the business day to which the transaction occurred.

G. The Police Chief may provide copies of the report to other law enforcement agencies. The entire transaction report form is subject to public disclosure pursuant to Oregon Public Records Law.

#### **7.10.050 Holding Periods.**

A. A copy of every transaction report form filled out and every photograph taken as required by this ordinance shall be kept on the premises of the secondhand business during normal business hours for at least one year from the date of acquisition. The transaction report form and the photograph shall be subject to inspection by the Police Chief pursuant to BC 7.10.055 of this ordinance.

B. Except as provided by state law, all regulated property purchased by a secondhand dealer and required to be recorded on a transaction report form shall be held by the secondhand dealer for at least 25 days from the date of acquisition. The secondhand dealer shall maintain the property in substantially the same form as when acquired 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 or at an alternate business location during normal business hours. The Police Chief must first approve the alternate business location before a secondhand dealer may store regulated property at the business location. A secondhand dealer that stores regulated property at an alternate business location shall transport regulated property

to the Police Chief to be inspected at its sole expense if requested by the Police Chief. Regulated property held by secondhand dealers 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 secondhand dealer and is required to be recorded on a transaction report form, shall be held by the secondhand 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 secondhand dealer holding regulated property that the Police Chief has probable cause to believe a specific item of regulated property is associated with criminal conduct. The secondhand 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. The Police Chief may also take physical custody of that regulated property, but in no event shall the Police Chief's physical custody exceed the statute of limitations for the crime being investigated. Any seizure of property shall be in accordance with Oregon Revised Statutes.

E. Except as otherwise provided in this section, the holding period for any item of regulated property shall not exceed 180 days from the date of acquisition.

F. If unreasonable hardship will result from holding regulated property as required under this section, the secondhand 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 secondhand 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 secondhand 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 secondhand dealer.

**7.10.053 Procedures for Release of Held or Seized Property.**

A. Procedures for release of held or seized property shall be in accordance with ORS Chapter 133.

B. Notwithstanding BC 7.10.053(A), the Police Chief may release regulated property to the owner if:

1. Another law enforcement agency has provided documentation to the satisfaction of the Police Chief of the stolen status of the property; or
2. The owner reported the property as stolen; the owner filed a stolen property report with a law enforcement agency where making an untruthful report is a violation of the law; and the Police Chief provided notice to the secondhand dealer holding the property or from whom the property was seized.

**7.10.055 Inspection of Property and Records.**

A. A secondhand business shall allow a representative of the Beaverton Police Department to enter the business premises to inspect the property or records of a secondhand business to ensure compliance with the provisions of this ordinance if the representative of the Beaverton Police Department presents official identification. The inspection will be for the limited purpose of inspecting the business location, regulated property, and business and related records as provided in this ordinance and any administrative rules promulgated under this ordinance. Representatives of the Beaverton Police Department shall only inspect the property and records of a secondhand business during the normal business hours of the secondhand business.

B. Authority to inspect secondhand business premises under this ordinance is in addition to and not a limitation of the authority that the City, the Police Chief, or representative of the Beaverton Police Department otherwise has to enter the business premises.

**7.10.059 Suspension or Revocation of Permit.**

A. The Police Chief may suspend or revoke an issued permit if the Police Chief has probable cause to believe any of the following conditions exist:

1. The licensee, or any person who owns, manages or operates the secondhand business, within the prior five years:
  - a. has had a secondhand business permit revoked for a reason that would be grounds for a denial or revocation pursuant to this ordinance; or
  - b. the secondhand business has been found to constitute a public nuisance.

2. The licensee, or any person who owns, manages or operates the secondhand business, has been convicted of a felony or any crime involving a false statement or dishonesty within the prior 15 years.

3. The licensee, or any person who owns, manages or operates the business unjustifiably refused the Police Chief to lawfully inspect the secondhand business premises.

4. The licensee, the secondhand business, or any person who owns, manages or operates the second-hand business, has committed more than ten violations of this ordinance, the Beaverton Code, any State or Federal law, or any combination thereof within the prior twenty-four months.

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

6. The licensee or any person who owns, manages, or operates the secondhand business was convicted of a crime that was connected with the operation of the secondhand business.

7. A lawful inspection under BC 7.10.055 has been refused.

B. The Police Chief may choose to not suspend or revoke a secondhand dealer permit despite grounds for suspension or revocation if the Police Chief concludes that the applicant has established more likely than not that the basis for suspension 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 orders the revocation of an issued secondhand dealer permit, the revocation procedures shall be conducted according to BC 2.05.050 through 2.05.066. The term "revocation" as found in BC 2.05.050 through 2.05.066 shall be interpreted for the purpose of this ordinance to mean revocation of a second-hand dealer permit. The term "licensee" as found in

BC 2.05.050 through 2.05.066 shall be interpreted for the purpose of this ordinance to mean the secondhand dealer.

D. If the Police Chief revokes an issued permit of a secondhand dealer, no part of the secondhand dealer permit fee shall be refunded to the secondhand dealer.

**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 through 2.10.050.

B. 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 through 5.05.230.

C. 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.

D. 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.

E. Violation of BC 7.10.017 is punishable by a fine of not more than \$500 per item sold or attempted to be sold without the consent of the item's owner.

**7.10.063 Adoption of Administrative Policies or Procedures.**

The Police Chief may adopt administrative procedures, rules, or regulations to carry out this ordinance. This authority includes updating the list of regulated property at any time to enhance the Police Department's ability to reduce property crimes and recover stolen goods, provided, however, that the Police Chief provides notice and an opportunity to comment for secondhand dealers when the list of regulated property is updated.

First reading this 4th day of December, 2018.

Second reading and passage by this Council this 8th day of January, 2019.

Approved by the Mayor this 9th day of January, 2019.

ATTEST:

Catherine Jansen  
CATHERINE L. JANSEN, City Recorder

APPROVED:

Denny Doyle  
DENNY DOYLE, Mayor