

## ARTICLE VI. SECONDHAND GOODS DEALERS

### DIVISION 1. GENERALLY

#### **Sec. 38-301. Purpose.**

The purpose of this article is to regulate the sale of certain secondhand goods to protect the health, safety and welfare of the general public. The City Council finds that some secondhand goods dealers potentially provide an opportunity for the concealment of crimes because such businesses have the ability to receive and transfer stolen property easily and quickly. The purpose of this section therefore is to prevent these businesses from being used as facilities for the commission of crimes and assure that such businesses comply with basic consumer protection standards.

#### **Sec. 38-302. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Electronic equipment* means televisions, radios, stereos, audio or video players and recorders, digital cameras, camcorders and like equipment but excluding musical instruments and their related amplification equipment.

*Jewelry* means objects of precious metals often set with precious stones but excluding costume jewelry. The term includes all watches.

*Power tools* means any device, either portable or stationary, equipped with an engine, motor, battery or other means of operation, including machine, carpentry and industrial tools or surveying equipment.

*Precious metals and gems* means gold, silver, platinum, sterling silver, precious gems, and coins with a numismatic value or intrinsic value greater than its denominational value, whether as a separate item or in combination as a piece of jewelry or other crafted item. This term does not include items plated with precious metal or metals when the plating equals less than one percent (1%) of the item's total weight.

*Secondhand good* means tangible personal property (excluding motor vehicles) previously owned, used, rented, or leased by a person other than the dealer offering it for sale.

*Secondhand goods dealer* means a person whose regular business includes the purchasing and selling or secondhand goods at their licensed place of business. A secondhand goods dealer does not include a person engaged in pawn transactions.

*Unique Identifier* means a serial number, identification number, model number, owner applied identifier or engraving, "operation ID" number or symbol, or other unique marking.

#### **Sec 38-303. Exemptions.**

This section does not apply to or include the following:

- (a) The sale of secondhand goods where the sale is held on property principally occupied as a dwelling by the seller as long as the sale does not exceed a period of 72 hours and not more than three sales are held by the same person or on the same property in any 12 month period. None of the items offered for sale can have been purchased for resale or received on consignment for the purpose of resale. :

- (b) The sale of secondhand goods on property owned, rented or licensed by a charitable or political organization as long as all of the secondhand goods have been donated.
- (c) Secondhand goods dealers that do not receive or sell any of the following:
  - (1) Items with a serial number or other unique identifier;
  - (2) Electronic equipment, including but not limited to audio equipment, video equipment, computers and computer related equipment;
  - (3) Precious jewelry, metals or gems;
  - (4) Power tools; and
  - (5) Firearms.
- (d) Sales by a person licensed as a motor vehicle dealer.
- (e) The sales of goods at an auction held by a licensed auctioneer.

## DIVISION 2. LICENSE

### **Sec 38-331. License Required.**

- (a) *Acts Prohibited.* No person may engage in the business of secondhand goods dealer without first obtaining a secondhand goods dealer license.
- (b) *Persons Ineligible for License.* A secondhand goods dealer license will not be issued to:
  - (1) A person who has been convicted of any state or federal law relating to receiving stolen property, sale of stolen property or controlled substance, burglary, robbery, theft, damage or trespass to property, operation of a business, or any law or ordinance regulating the business of pawnbroker or secondhand goods dealer;
  - (2) A person who within three years of the license application date had a pawnbroker or secondhand goods dealer license revoked;
  - (3) A secondhand goods dealer license will not be issued to any partnership or corporation if such applicant had a partner, managing partner, proprietor or agent who does not meet the standard set forth in (2) or (3) above.
- (c) *Changes in Ownership.* Any change in the ownership of any licensed secondhand goods store shall require the application for a new license and the new owner must satisfy all current eligibility requirements.
- (d) *Changes in Location.* A license will be issued to the applicant only for the business premises as described in the application. Should the applicant seek to move the business, the license shall not be changed to another location without approval of the Council.
- (e) *Duration.* A secondhand goods dealer license shall be valid for 12 months or the part of the year for which it is issued and shall expire on January 31<sup>st</sup> following the year of issuance.

### **Sec 38-332. Application**

- (a) *Contents.* Every applicant for a license shall submit an application to the clerk on a form provided by the City. The application will not be considered unless it is accompanied by payment of the prescribed fee.
- (b) *Criminal history background.* The City, prior to the granting of an initial or renewed secondhand goods dealer license, must conduct a criminal background investigation of the applicant. Any person having a beneficial interest in the license must be investigated. The investigation shall be conducted by the Police Department. Before the investigation is undertaken, the applicant must authorize the Police Department in writing to undertake the

investigation and to release the information to the City Council, City Manager and other City staff as appropriate. The fee for the criminal history background check shall be established by the City and shall so be stated in the City's fee schedule.

### **Sec 38-333. Issuance**

- (a) *Application Review.* If, after investigation, the City Clerk is satisfied that all requirements of law and this Code have been met, the City Clerk shall issue said license. If the application is incomplete, the City Clerk shall notify the applicant in writing to inform them of the deficient or missing information.
- (b) *Denial.* Any license under this chapter may be denied for one or more of the following reasons:
  - (1) The applicant(s) is ineligible for a license or has failed to comply with one or more provisions of this chapter.
  - (2) The applicant has committed fraud or bribery, or made misrepresentations or false statements in the application, investigation or operation of the second hand good business.
  - (3) The premises do not comply with any health, building, building maintenance or other provisions of this code or state law.
- (c) *Notice of Denial.* Should the city deny the applicant's request for a license, the applicant shall be notified in writing of the following:
  - (1) The grounds and reason for denial.
  - (2) The applicant complaint and grievance procedure set forth in state statutes.
  - (3) If the denial is based upon a criminal conviction that all competent evidence of rehabilitation will be considered upon reapplication.
  - (4) That the application fee is not refundable.
- (d) *Liability insurance.* No license or renewal shall be granted, nor shall the same be effective, until the applicant shall file with the City Clerk proof of a public liability insurance policy covering all operations of such applicant under this article for the sum of at least \$1,000,000.00 per occurrence with an annual aggregate limit of \$2,000,000.00. The city shall be named and the insurance provided shall include the city as an additional party insured. Said policy shall provide that it may not be cancelled by the insurer except after 15 days' written notice to the city, and if such insurance is so cancelled and the licensee shall fail to replace the same with another policy conforming to the provisions of this article, said license shall be automatically suspended until such insurance shall have been replaced.

### **Sec 38-334. Fees**

- (a) *Fee established.* License fees are as established by the city.
- (b) *Prorated fees.* License fees shall not be prorated.
- (c) *Refunds.* License fees shall not be refunded in whole or in part.

### **Sec. 38-335. Inspection.**

- (a) *Authorized personnel.* Any city official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any license,

business, or premises to enforce compliance with applicable provisions of this Code. Subject to the provisions of subsection (b) of this section, the licensee may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.

- (b) *Search warrants.* If the licensee objects to the inspection of their premises, the city official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection.

**Sec. 38-336. Duties of licensee.**

- (a) *Compliance Required.* Every licensee shall have the duties set forth in this section.
- (b) *Compliance with Law.* The licensee shall comply with laws, ordinances, and regulations applicable to the licensed business, activity, or property.
- (c) *Display of License.* The licensee shall prominently display the license in a conspicuous place on the premises at all times
- (d) *Unlawful Disposition.* The licensee shall not lend or give to any other person his license.
- (e) *Records.* A licensed secondhand goods dealer at the time of the receipt of an item, must immediately record descriptive information about the transaction. The records as well as the goods received must be open for inspection by the police department at reasonable times. Records required by this subsection must be stored and maintained by the licensee for a period of at least three years. For each transaction, the following information shall be noted in either a computerized record or kept in a journal used for this purpose using indelible ink:
  - (1) Date, time and place of receipt
  - (2) An accurate description of the item including, but not limited to any trademark, identification number, serial number, model number, brand name or other identifying mark on such item
  - (3) The purchase price
  - (4) Name, address, phone number, and date of birth of the person from whom the item was purchased
  - (5) The identification number from any of the following forms of identification of the seller – valid picture driver’s license or official state picture identification
  - (6) An original signature (not a copy) of the person from whom the item was received.
- (f) *Prohibited Acts.* A licensed secondhand goods dealer must not purchase goods from the following individuals:
  - (1) A person under the age of 18 years.
  - (2) An intoxicated person
  - (3) A person who is unwilling to present an acceptable form of picture identification or supply any of the other required information referenced in (e) above.
- (g) *Prohibited Goods.* A licensed secondhand goods dealer shall not accept any item of property which contains an altered or obliterated serial number, “an altered or obliterated “operation identification” number or any item of property whose serial number has been removed.
- (h) *Stolen or Lost Goods.* A licensed secondhand goods dealer must report to the police any article received, or sought to be received if the licensee has reason to believe that the article was stolen or lost.

- (i) *Police Orders.* The licensee shall comply with all lawful orders of any law enforcement agency.

**Sec. 38-337. Suspension or Revocation.**

The Council may suspend for a period not exceeding 60 days or revoke any license for violation of any provision of law, ordinance, or regulation applicable to the license or property. The holder of the license shall be granted a hearing upon at least ten days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

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