



ORDINANCE NO. 20-686

AN ORDINANCE OF THE CITY OF WINSTON, OREGON, CITY COUNCIL, ADDING CHAPTER 112, REGULATING SECONDHAND PROPERTY DEALERS, TO THE WINSTON MUNICIPAL CODE.

WHEREAS, the City of Winston currently has very little regulations on secondhand property dealers; and,

WHEREAS, The City of Winston has only one secondhand property dealer and it is about to shut down; and,

WHEREAS, the City of Winston wants to offer a layer of protection to both the citizens and secondhand property dealers; and,

WHEREAS, a low percentage of stolen goods are sold at secondhand property dealers when they adhere to a strict requirement of identification verification; and,

WHEREAS, the City of Winston should expect more secondhand property dealers to establish in Winston due to the lack of competition inside the City and should prepare to take all steps in order to protect the citizens.

NOW, THEREFORE, THE CITY OF WINSTON, OREGON, CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 112, entitled *Secondhand Property Dealers* is hereby added to the Winston Municipal Code to read as follows:

CHAPTER 112. SECONDHAND PROPERTY DEALERS

Sections:

- 112.05 Definitions.
- 112.10 Purpose.
- 112.20 Permit required.
- 112.30 Business registration required.
- 112.40 Location and hours of operation.
- 112.50 Record keeping requirements.

112.60 Restriction on certain sales.

112.70 Prohibited purchases.

112.99 Penalties.

§ 112.05 Definitions.

For the purpose of this Chapter, the following words and phrases are defined as follows:

“Non-valuable metals” are limited to metals not regulated by state law, such as dental gold, unrefined metal ore, gold or silver coins, or bullion in any form.

“Peace officer” means a law enforcement official as defined in Oregon Revised Statutes 133.005.

“Personal identification” means an identification card or document issued by a recognized governmental agency which bears the full name, signature, photograph, date of birth, and physical description of the issued person.

“Secondhand property” means merchandise which was previously owned by a private individual.

“Secondhand property dealer” means a person, or employee of any person, who operates, conducts, manages, or engages in any business which, as part or all of the business, purchases or sells secondhand property, and/or lends money on security of regulated property. Secondhand dealer, secondhand property dealer, and used merchandise dealer shall be used interchangeably.

“Secondhand store” means a place of business which buys and/or sells secondhand property.

§ 112.10 Purpose.

A. The intent of this Chapter is to regulate the buying and selling of secondhand property by businesses located within the City of Winston. Nothing within this Chapter is intended to supplant the State of Oregon’s Pawnbrokers Act contained in Chapter 726 of the Oregon Revised Statutes (ORS), which relates to pawnbrokers licensed by the state to loan upon the security of secondhand property, nor the Precious Metals Act enacted within ORS Chapter [646A](#) applying to gold of eight karats or higher, silver, platinum, and palladium.

B. Nothing in this Chapter applies to charitable, non-profit organizations or to persons or businesses dealing exclusively in automobiles, farm implements and machinery, used

books or audiobooks, secondhand clothing, or commercial and industrial scrap metal recycling.

§ 112.20 Permit required.

A. No person shall engage in a secondhand property business without obtaining a secondhand dealer's permit from the city. Agents and employees who engage in the purchase of used merchandise must also obtain a permit from the city and are subject to all requirements of this chapter.

B. The Council shall set the annual fee for a secondhand dealer's permit by resolution.

C. Application for a used merchandise dealer's permit must be submitted on a form prescribed by the city. An application must be submitted at least thirty (30) days prior to the date the permit is requested to be effective.

§ 112.30 Business registration required.

No person may operate as a secondhand property dealer within the City of Winston without first completing and filing a Business Registration Application with the City pursuant to Chapter §110 of the Winston Municipal Code.

§ 112.40 Location and hours of operation.

Secondhand property dealers must operate out of an established storefront located at the address enumerated upon their business registration, conduct all sales under that business name, and maintain business hours that fall between the time(s) of 5:00 AM and 9:00 PM.

§ 112.50 Record keeping requirements.

A. Secondhand property dealers shall require, inspect and record the personal identification of all persons from whom they purchase secondhand property except for that purchased from and upon the premises of a privately held yard sale, estate sale, auction, or charitable event. Such records shall include the seller's full name, date of birth, address, type of personal identification used and signature. Such identification shall not be required if the customer's identity was previously recorded by the dealer from prior patronage or the customer is unequivocally known to the dealer as a personal friend or family member, provided such personal knowledge is documented in each individual transaction.

B. Secondhand property dealers shall inspect and document all items of secondhand property purchased and keep a record of each purchase with the following identifiers, at a minimum, for each item:

1. The identity of the seller as required in the above Subsection A;
2. Date of purchase;
3. Property type;
4. Make and model;
5. Color;
6. Owner-applied number(s) or identifiers;
7. Serial number(s);
8. For jewelry: the weight, color, number of stones, setting and precious metal type;
9. For collectible coins and stamps: a description of the amount and type;
10. For non-valuable metals not covered by the Precious Metals Act: a description of the type, weight, and color of the metal(s);
11. For all items: the purchase price of the secondhand property transaction; and
12. The name of the representative of the secondhand property dealer who purchased the property.

Photographs may serve as a basic description of the property so long as identifying numbers are documented in addition to the basic description, and records may be kept electronically rather than in writing provided the record contains all the required information.

C. The records required in the above Subsections A and B shall be created and maintained in chronological order by the date of purchase, retained upon the business premises of the secondhand property dealer for a minimum of one (1) year from the date the property was purchased and be made available for inspection upon request by a peace officer during the operating hours of the secondhand property dealer.

D. In the event the City utilizes an electronic secondhand property reporting system, written notice shall be given to all secondhand property dealers. Within 90 days of the date of such notice, all secondhand property dealers must maintain their secondhand property

records in a digital or electronic format compatible with the system utilized by the City. Such form of documentation must comply with all requirements set forth in this Subsection (§ 112.50) and the secondhand property dealer must submit such records electronically to the system utilized by the City within 72 hours of each individual purchase of secondhand property in addition to maintaining purchase records as described in (C), above.

E. Items of secondhand property which are high in volume and low in value such as secondhand clothing, used paperback books, non-valuable metals, vinyl albums, and cassette tapes may be entered into the purchase record more generally so long as the identity of the seller and volume and/or number of items are documented.

§ 112.60 Restriction on certain sales.

A. Secondhand property dealers are prohibited from selling any secondhand property item for a period of seven (7) days for property valued less than \$100.00 and a twenty-day (20) period for property with a value of over \$100.00 after the purchase of such item. During such time, the secondhand property shall be maintained in the same form as purchased, kept on the business premises for potential inspection by peace officers and segregated from other merchandise for sale.

1. Exceptions to the waiting period of seven (7) days prior to selling the secondhand property may be made so long as the purchase record(s) as described in (§ 112.050) includes photographs of the secondhand property and that property has a value less than \$100.00.

2. Other exceptions to this waiting period may be made under the following circumstances and items of secondhand property:

- a. Large items such as appliances, furniture, and bicycles need not be segregated during the holding period due to storage limitations which would not allow segregation to be possible.

- b. High-volume items of secondhand music such as compact discs, cassette tapes, and vinyl albums need not be subjected to a holding period so long as their purchase record contains details on the album name and artist.

- c. Secondhand property purchased from yard sales, estate sales, auctions or charitable events need not be subject to this holding period.

B. Secondhand property dealers shall refrain from selling any secondhand property item for a period of thirty (30) days upon specific request by a peace officer based upon reasonable suspicion that the item of secondhand property may have been stolen and/or illegally sold.

§ 112.70 Prohibited purchases.

Secondhand property dealers may not purchase secondhand property under any of the following circumstances:

- A. The seller is clearly under the influence of intoxicants or illicit drugs;
- B. The purchaser has reason to believe the seller is not the legal owner of the secondhand property; or
- C. The secondhand property contains any serial numbers or owner-applied identifiers which have been altered or obliterated.
- D. Any gift cards, in-store credit cards, or activated phone cards.
- E. Purchase from a person under the age of eighteen (18) years unaccompanied by a parent or guardian.

§ 112.99 Penalties.

Failure to comply with the requirements set forth in this Chapter will subject the business registrant to the penalties set forth in Chapter §110.99 of the Winston Municipal Code. The remedies provided in this Section are not exclusive and shall not prevent the City from exercising any other remedy available under law, either simultaneously or otherwise, including but not limited to seeking penalties as provided in Chapter §10.99 of this Code.

SECTION 2. All other Chapters, Sections and Subsections of Title XI of the Winston Municipal Code shall remain in full force & effect as written.

This Ordinance goes into effect thirty (30) days from the date of adoption.

FIRST READING BY THE CITY OF WINSTON, OREGON, CITY COUNCIL, ON THIS 18TH DAY OF MAY, 2020.

SECOND READING AND ADOPTION BY THE CITY OF WINSTON, OREGON, CITY COUNCIL, ON THIS 1ST DAY OF JUNE, 2020.

APPROVED BY THE MAYOR ON THIS FIRST DAY OF JUNE, 2020.

Richard E. Hayes, Mayor

Attest:

Mark D. Bauer, City Manager/Recorder