

GENERAL ORDINANCE NO. 83-1048**AN ORDINANCE LICENSING AND REGULATING THE
COMMERCIAL RESALE BUSINESS AND REPEALING
GENERAL ORDINANCE NO. 759 AND 760**

THE PEOPLE OF THE CITY OF THE DALLES DO ORDAIN AS FOLLOWS:

Section 1. Definitions.

- (a) “Commercial Resale Business” means any person or partnership, association or corporation which purchases used goods from another for the purpose of trade or resale. The term “commercial resale business” includes any person, co-partnership, association or corporation acting as a pawnbroker, junk dealer, salvage yard, recycler, antique dealer, coin shop, second-hand dealer, and any other business the principal activity of which is to purchase and disposition of used goods.
- (b) “Junk Dealer” is any person, co-partnership, association or corporation which conducts or maintains a building structure, yard or place for the keeping or storing or piling of any old or used second-hand material of any kind including: cloth, rags, clothing, cardboard, paper, rubbish, bottles, rubber, plastics, ferrous metals, non-ferrous metals, furniture, farm machinery, appliances, wires, cables, motor vehicles or parts of motor vehicles, or other articles which by reason of age, prior use, worn condition or damage are rendered useless for the purpose for which they were manufactured without extensive repair, and which is commonly classified as junk, and which purchase or trades or offers for sale any junk.
- (c) “Pawnbroker” means a pawnbroker as defined in ORS 726.010 subsection (1) as exists on the date of passage of this ordinance.
- (d) “Second-hand Dealer” means any person, partnership, association or corporation in the business of purchasing used goods for resale whether or not such goods are repaired or remanufactured prior to being offered for sale. A second-hand dealer does not include a merchant who deals primarily in new, unused merchandise, who, occasionally accepts used goods as a credit against the purchase price of new items even though the used items are resold, provided, used goods account for less than 50% of gross sales and are priced for resale at trade-in credit allowed or less.
- (e) “Antique Dealer” means any person, co-partnership, association or corporation in the business of buying antiques or collectibles or objects of art for resale.

- (f) "Salvage Yard" shall be synonymous with a junk dealer for the purposes of this ordinance.
- (g) "Recycler" shall be considered synonymous with junk dealer for the purposes of this ordinance.
- (h) "Coin Shop" shall mean any person, co-partnership, association, or corporation engaged in the business of purchasing, exchanging, trading or accepting on consignment coins, currency, bullion or stamps, gems or precious metal.
- (i) "Book Seller" a person trading in new or used books, tapes, records, or periodicals.
- (j) the terms "buy" and "purchase" have the same meaning for the purpose of this ordinance. The terms "buy" and "purchase" include any exchange of possession of goods for consideration and includes all forms of barter, pledge, and consignment sale, as well as transactions for monetary consideration or for a negotiating instrument or chose in action. A lease shall be considered a "buy" or "purchase" if the lessee retains title at the conclusion of the lease and the lease is for a period of less than one year, or, if the lessee routinely transfers or lends the leased item to a third person.
- (k) The term "person" as used in this ordinance shall include any natural person, co-partnership, joint venture association, corporation or any other business entity.

Section 2. License Required. No person shall operate a commercial resale business without first having obtained the license therefore from the City Clerk.

Section 3. Exemptions. Persons exempt are licenses gun traders, auctioneers, used car dealers, automotive tire dealers.

Section 4. Application for License. An applicant for a license to engage in commercial resale business shall file a written application with the City Clerk. Application shall contain the following:

- (1) the name and business address of the applicant;
- (2) the name and business address of the person filing the application, if different;
- (3) the name, address, date of birth, and driver's license number of the owner or principal managing agent of the business;

- (4) the location where the business is to be carried on together with a certification from the Planning Director that their premises are properly zoned for the particular use or activity contemplated;
- (5) type of commercial resale business intended, principal types of items to be purchased and resold; and
- (6) an authorization and waiver granting the City Clerk and Police Chief permission to inquire as to any record of conviction of the applicant from any law enforcement data base and absolving the City, its servant and any person furnishing data from any liability for its accuracy in use or revelation to the public. License fees shall be tendered with the application.

Section 5. License Fees. License fees shall be set by resolution of the Council. License fees shall be paid yearly.

Section 6. Processing of Applications. Upon receipt of a completed application the City Clerk shall forward the application to the Chief of Police, who shall investigate whether or not the applicant has been convicted of a crime, and provide the results of the investigation to the City Clerk, together with a recommendation as to whether to grant or deny the license application. The City Clerk shall deny a license application if it is found that:

- (1) The required license fee was not submitted with the application; or
- (2) The applicant or the principal managing agent or owner of the business has been convicted of larceny, burglary, theft, embezzlement, identity theft including aggravated identity theft, forgery, or a felony offense involving the manufacture, use, sale, distribution, or delivery of a controlled substance, within the five year period preceding the date of application for the license and provided further, that if an applicant or the principal managing agent or owner of the business was placed on probation or parole as a result of the conviction, that person must provide proof of successful completion of the term or probation or parole, and proof of no further convictions of the type listed in this subsection for the five year period following completion of the term of parole or probation; or
- (3) Certification of the Planning Director was not obtained; or
- (4) The applicant or principal managing agent of the business has been convicted of violation of this ordinance; or
- (5) The applicant is currently the subject of an order suspending or revoking a previous commercial resale business license issued to the applicant.

The City Clerk shall issue the license if no grounds exist for denying the application. [Section 6 amended by General Ordinance No. 08-1290, adopted by City Council April 28, 2008.]

Section 7. Notification of Denial, Rights of Appeal. On determination by the City Clerk that grounds for denial exist the City Clerk shall serve a written notice upon the applicant by regular mail addressed to the address which the applicant furnished on its application. Notice shall contain succinct statement of the grounds for denial of the application and notify the applicant of its right to demand a hearing to contest the accuracy of the information depended upon for denial. Notice of appeal shall be filed in writing and shall contain a brief statement by the applicant on grounds for its appeal together with summary of the evidence to be considered in support of it. Appeals shall be heard by the City Council.

Section 8. Processing of Appeals. Upon receipt of notification of appeal, the City Clerk shall cause a public hearing upon the appeal to be scheduled for the next available meeting of the City Council. The hearing shall be conducted as a contested case. The applicant shall be entitled to be represented by counsel and the decision of the City Council upon the appeal shall be reduced to writing. The applicant shall be entitled to present no matters at the hearing other than procedural objections which are not fairly raised by the notice of appeal.

Section 9. Licensees to Furnish Records of Transactions. Each person licensed under this ordinance shall maintain a daily record of purchases. The record shall contain the following information:

- (1) the date of the transaction;
- (2) a description of the item or items purchased including the type of item, condition, color, serial number (if any), and other distinguishing characteristics;
- (3) the name and address of the person from whom the item was purchased; and
- (4) the type of identification presented by the person from whom the item was purchased to establish that person's identity. Purchase records required to be kept by this section shall be kept for a period of one year.

Section 10. Exemptions. The following persons need not maintain the records required by Section 9 for the transactions listed below:

- (a) recyclers, junk dealers, and salvage yards, except as to motor vehicles, machinery, appliances, power tools, and electrical equipment having a manufacturer's serial number;
- (b) persons dealing in used books, clothing, shoes, and toys for all purchases of books, clothing, shoes, and toys; and

- (c) all persons for used items purchased at less than \$25.00 per individual item.

Section 11. Inspection of Records. Licensees shall make purchase records available for inspection by any law enforcement officer of the City, County, State or National Police agencies upon demand between the hours of 10:00 a.m. and 4:00 p.m. on weekdays except holidays, or upon any date or time when the licensee is conducting business.

Section 12. Prohibited Transactions. No licensee shall engage in any of the following acts:

- (a) purchase any item from any person who fails or refuses to provide documents establishing identity;
- (b) purchase any item upon which serial numbers have been defaced or altered;
- (c) purchase any item knowing it to be stolen; and
- (d) purchase any item from any person under eighteen years of age.

Section 13. Suspension or Revocation of License. The City Clerk shall upon receipt of information that a licensee, it's owner, or principal operating agent has committed any of the following acts, issue a notice of revocation or suspension of any license granted under the terms of this ordinance.

- (a) The following shall be grounds for suspension:
 - (1) inadvertent failure to maintain required records; or
 - (2) inadvertent failure to require identification from a seller of goods.

Suspension shall be for a period of sixty (60) days.

- (b) The following shall be grounds for revocation:
 - (1) deliberately violated the terms of this ordinance;
 - (2) purchased stolen property from any person under circumstances where a reasonable man would have cause to believe that the property had been stolen;
 - (3) been convicted of any offense which would be grounds for denial of a license; or

- (4) been convicted of any willful violation of this ordinance.

Revocation shall be for a period of not less than ten (10) years. Revocation and suspensions shall also include the right to revocation or the right to apply for a new license under this ordinance or any successor ordinance until the terms of the revocation or suspension expired.

Section 14. Appeal of Revocation or Suspension. Notice of appeals on revocation and suspension hearings shall be handled in the same manner as appeals from the denial of a license.

Section 15. Penalties. No person shall violate or fail to comply with any provision of this ordinance. Any person convicted of violating or failing to comply with the provision of this ordinance shall be fined not more than \$1,000.00 or imprisoned for not more than 10 days, or both.

Section 16. Additional Civil Penalty. Any commercial resale business which purchases or receives for resale an item of stolen property and also fails to comply with the terms of this ordinance shall be civilly liable to the person entitled to possession of such property in an amount equal to three times the replacement value of the item or \$1,000 whichever is greater. For the purposes of this provision replacement value shall be the retail purchase price of a new item of the same or similar quality and function. This right of action shall be in addition to any other right that a person wronged may have by statute or common law to recover the stolen goods or the value of them.

Section 17. Ordinances Repealed. City of The Dalles General Ordinances No. 759 and 760 are repealed as of the effective date of this ordinance except that licenses in effect under either ordinance on the date of this ordinance becomes effective shall be continued subject to annual renewal.

Approved by the Council on the 21st day of November, 1983 and signed by the Mayor the 21st day of November, 1983.