

ORDINANCE NUMBER 1552

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, FOR THE REGULATING OF JUNK DEALERS, SECONDHAND DEALERS, PAWNBROKERS AND TRANSIENT MERCHANTS.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Title. This ordinance shall be known as the Milwaukie Junk Dealers, Secondhand Dealers, Pawnbrokers and Transient Merchants Ordinance.

Section 2. Definitions.

- A. Junk Shop. Any store, room, building, yard, enclosure or other place where junk is regularly sold, bought or traded for profit or pleasure.
- B. Junk. Shall include and mean rags, paper or bagging, old iron, brass, copper, tin, or lead, empty bottles, scrap metals or all kinds, and other worn out or discarded material.
- C. Secondhand Articles. Any used personal property except books and records, including but not limited to used wearing apparel, tools, coins, stamps, precious stones and metals, jewelry and all other goods, wares or merchandise.
- D. Secondhand Store. Any store, room, building, yard, enclosure or other place where secondhand articles are regularly bought, sold or traded for profit or pleasure.
- E. Junk Dealer/Secondhand Dealer. Any person who regularly operates or keeps any junk shop or secondhand store.
- F. Minor. Any unmarried person under the age of 18 years.
- G. Pawnbroker. Any person engaged in conducting, managing or carrying on the business of loaning money for himself or for another, upon personal property, personal security, pawns or pledges, or engaged in the business of purchasing articles of personal property and reselling or agreeing to resell such articles to the vendors or their assigns, at prices agreed upon at or before the time of such purchase.
- H. Pawnshop. Any room, store or place where a pawnbroker conducts a business as defined in subsection G above.
- I. Person. Shall include an individual, partnership, association or corporation.

J. Transient Merchant. Any person engaged or participating within the City of Milwaukie in purchasing any second-hand articles or junk from any person not representing a bona fide, licensed business, when such transient merchant is not a permanent merchant in the city as demonstrated by the maintaining of business premises within the city.

K. City. City of Milwaukie.

Section 3. Business License Required.

- A. It shall be unlawful to operate or keep any junk shop, secondhand store or pawnshop without first having obtained a business license therefore as required by Ordinance No. 1350.
- B. No license granted to any junk shop, secondhand store or pawnshop shall be assignable.

Section 4. Dealers and Pawnbrokers Report.

- A. Every junk dealer, secondhand dealer and pawnbroker at the time of taking, receiving or purchasing any article, with market value over fifty dollars, in the business for which he is licensed, shall complete the Milwaukie Police Department Junk, Secondhand Dealers and Pawnbrokers Report by filling in the blank spaces in that report with pertinent data.
- B. Every person regulated by the provisions of this section shall mail or deliver to the Chief of Police or his designee, at the close of each business day, all of such forms, or legible copies thereof, describing articles purchased by him during that business day.

Section 5. Dealers and Pawnbrokers Register. Every junk dealer, secondhand dealer and pawnbroker shall keep a bound book register of all articles with a market value over fifty dollars (\$50.00) purchased or received by the dealer or pawnbroker. This register shall be open to inspection by the Police Department at all times during business hours. The register shall contain a full, true and complete statement of all goods, wares, merchandise, or things purchased or received during each day. The register shall also show the date and hour of the day when each article was received, any amounts paid, and an identifiable description of each article purchased or received. If any article so received has engraved thereon any identifying number, mark or symbol, or contains any setting of any kind, the description of such article in the register shall contain such number, word or initials and show the kind of settings and the number of each kind. The register shall also include the printed name, signature and address of the person from whom the purchase is made. The dealer or pawnbroker shall make a reasonable effort to determine that such name and address is correct by obtaining two (2) pieces of identification from the customer at the time of the transaction.

This identifying information, i.e. driver's license number, shall be noted in the register.

No junk dealer, secondhand or pawnbroker shall be required to record such description of any property purchased from manufacturers or wholesale dealers having an established place of business, or secured from any person doing business and having an established place of business, but such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to a police officer upon request.

The dealer shall retain each register for at least one (1) year after the date of the last entry therein.

Section 6. Hold on Disposition. Each article purchased or received by a junk dealer, secondhand dealer or pawnbroker which contains an identifying number, mark or symbol shall not be sold or otherwise disposed of for a period of fifteen (15) days after the dealer or pawnbroker purchases or receives the article, and the dealer or pawnbroker shall enter in the register the signature and address of the person to whom the article is sold or otherwise disposed. The dealer or pawnbroker shall make a reasonable effort to determine that such name and address is correct by obtaining two (2) pieces of identification at the time of the transaction. All other items, with the exception of gold and silver bullion, gold coins minted by a governmental agency, and U.S. Silver coins minted prior to 1971, must be held for a period of forty-eight (48) hours after the dealer or pawnbroker has returned the Police Report provided for in Section 4 A and 4 B above to the Police Department, unless sooner released by the Chief of Police or his designee.

Whenever the Chief of Police or his designee, upon reasonable belief that the specific property is the subject of theft, notifies in writing any junk dealer, secondhand dealer or pawnbroker not to dispose of any specifically described property purchased, the property shall not be sold, exchanged or otherwise disposed of for a period of time not to exceed thirty (30) days, as determined by the Chief of Police or his designee.

Section 7. Altered or Removed Identification. No junk dealer, secondhand dealer or pawnbroker shall purchase, exchange or hold any article which has an altered or removed identification number or name, except that which has been authorized by the manufacturer or governmental agency.

Section 8. Identification of Articles. Each article with a market value over fifty dollars (\$50.00) bought or received by junk dealer, secondhand dealer or pawnbroker shall be assigned an identification number by such dealer or pawnbroker, by marked tag or otherwise, which number shall appear on the Police Report provided for in Section 4 and the Register provided for in Section 5 above.

Section 9. Property Sales.

- A. No secondhand articles as defined herein and purchased by any transient merchant as regulated pursuant to this ordinance shall be sold for a period of ten (10) full days after such purchase. All such secondhand articles so purchased shall be kept during this entire ten (10) day period in safekeeping in a manner approved by the Chief of Police or his designee, within the corporate limits of the city. The expense of such storage shall be borne by the merchant.

Upon placement of such secondhand articles in such safekeeping, the transient merchant shall before the end of that business day in which the items were so placed, mail or deliver written notice to the Chief of Police or his designee of the locations where such items are being kept during this ten (10) days period.

- B. Whenever the Chief of Police or his designee, upon reasonable belief that the specific property is the subject of theft, notifies any transient merchant in writing during this ten (10) day period not to dispose of any specifically described secondhand articles purchased as regulated by this ordinance, then such property shall not be sold, exchanged, moved out of the corporate limits of the city, or in any way disposed of for a period of time not to exceed thirty (30) days, as determined by the Chief of Police or his designee.

Section 10. Surety Bond Required. No person shall engage in business as a transient merchant until such person has filed with the City Recorder a one thousand dollar (\$1,000) bond, with a surety company licensed to do business in the State of Oregon as surety, for the benefit of any person damaged by false, fraudulent or misleading representations of the transient merchant in the conduct of his business.

Section 11. Dealing with Minors. No person subject to regulation under the terms of this ordinance shall, in the course of business for which he is licensed, take, receive or purchase any article from a minor.

Section 12. Penalties. Any person who operates any business in violation of this ordinance shall upon conviction be fined not exceeding three hundred dollars (\$300.00). A failure from day to day to comply with this ordinance shall be a separate offense for each such day.

Section 13. Purpose. The purpose of this ordinance is to provide strict regulation of certain types of businesses that the Council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. Therefore, this ordinance is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The Council finds that the regulations provided herein are necessary, and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

Section 14. Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

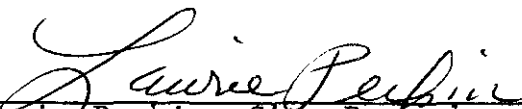
Read the first time on September 6, 1983, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on September 6, 1983.

Signed by the Mayor on September 8, 1983.


Joy Burgess, Mayor

ATTEST:


Laurie Perkin, City Recorder

Approved as to form:


Greg Eades, City Attorney