

City of St. Helens
ORDINANCE NO. 3210

AN ORDINANCE AMENDING ST. HELENS MUNICIPAL CODE 5.16
REGARDING SECONDHAND DEALERS AND PAWNSHOPS

WHEREAS, St. Helens Municipal Code 5.16 governs secondhand dealers and pawnshops;
and

WHEREAS, several jurisdictions have revised their municipal codes in recent years and the City of St. Helens desires the proposed changes to SHMC 5.16 to more closely align with current best practices.

NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:

Section 1. Recitations. The above recitations are true and correct and are incorporated herein by this reference.

Section 2. SHMC 5.16 is amended as set forth in Exhibit A to this ordinance (additional language is underlined and deleted text is shown as ~~strikethrough~~).

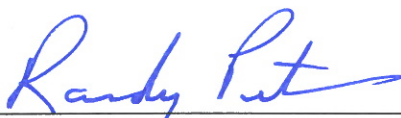
Section 3. This ordinance shall be effective 30 days after its passage.

Read the first time: September 7, 2016
Read the second time: September 21, 2016

APPROVED AND ADOPTED by the City Council this ~~20th~~ ^{21ST} day of ~~August~~ ^{September}, 2016, by the following
vote:

Ayes: Locke, Carlson, Conn, Morten, Peterson

Nays: None



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

Chapter 5.16 SECONDHAND DEALERS

Sections:

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5.16.010 Purpose.

The purpose of this chapter is to provide strict regulation of certain business activities that the council finds present an extraordinary risk of being used as a means of concealing criminal behavior involving the theft of property. This risk is present despite the best efforts of legitimate dealers because of the large volume of goods and material that are processed in such businesses. Therefore, this chapter is intended to reduce this type of criminal activity by providing more timely police awareness of such business transactions. The council finds that the regulation provided herein are necessary, and the need for the regulation outweighs any anticompetitive effect that may result from their adoption. (Ord. 2491 § 1, 1986)

5.16.020 Licenses and fees.

Every person who is a pawnbroker or secondhand dealer shall obtain from the city an annual license to conduct such business. The fees to be charged for the annual license shall be those fees established by the general licensing ordinance of the city. (Ord. 2491 § 2, 1986)

5.16.030 Exclusions.

The terms of this chapter, except those terms relating to licensing, shall not apply to the following:

- (1) To sales conducted by sheriffs, constables or other public officers who are acting according to law in their official capacity.

(2) To regularly licensed business establishments whose gross sales of new merchandise are more than 60 percent of its gross sales. Anyone relying upon this exclusion shall file with the city, upon demand, a written statement as approved by the city showing gross sales.

(3) To the business of selling at auction livestock, poultry or agricultural products.

(4) To a single auction sale that is conducted by the owner of the goods, or someone under his immediate supervision and control, upon the premises of the owner where such goods have been held or stored. No more than one such auction sale may be held on the premises during any 12-month period.

(5) To garage, basement or occasional sales as herein defined.

(6) To charitable or religious organizations. (Ord. 2491 § 3, 1986)

(7) To the sale of 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 in the city, provided that such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to the chief of police or any police officer upon written order of the chief of police.

516.040 Definitions.

The following words and phrases shall have the meaning ascribed to them in this section:

(1) "Crimes of moral turpitude" means a crime which requires as an element of the crime a knowing or intentional act and has one of the following characteristics: fraud, deceit, dishonesty, harm to a specific victim, or illegal activity undertaken for personal gain.

(2) "Hearings officer" means the city council, or an outside party not affiliated with the city, hired or selected to conduct an appeals proceeding.

(3) "Pawnbroker" means any person engaged in conducting, managing or carrying on the business of loaning money for himself or for another, upon personal property, personal security, pawn 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.

(4) "Pawnshop" means any room, store or place in which a pawnbroker business is carried on or conducted.

(4)(5) "Police department" means the St. Helens Police Department.

(6) "Regulated property" means property of a type that has been determined by the chief of police to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as including but not limited to precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, gift cards, in-store credit cards, activated phone cards and household appliances. In order to enhance the police department's ability to reduce property crimes and recover stolen goods, a list of regulated property may be included in the administrative policies and procedures, and shall be updated by the chief of police. A copy

will be kept on file in the police department.

~~(5)~~(7) "Secondhand dealer" means any person who buys, sells or otherwise deals in secondhand tools, goods, wares or merchandise or other articles and things usually found in a secondhand store, except books, or any person who goes from house to house, or place to place, within the city, purchasing or soliciting the purchase of gold, silver or other precious metals or jewelry.

A "secondhand dealer" shall also include an auction market operator.

A "secondhand dealer" shall include the owner or occupant of any premises where a sale of secondhand or used merchandise commonly known as a "garage sale" or a "basement sale" is conducted, except such sales as satisfy all of the requirements of a "garage sale," "basement sale" or "occasional sale" as defined herein.

For the purposes of SHMC 5.16.050 through 5.16.090, a "secondhand dealer" shall include an antique dealer or anyone holding himself out as an antique dealer.

~~(6)~~(8) "Garage sale," "basement sale," or "occasional sale" means a sale of quantity of merchandise, clothes, household goods, personal property, etc., previously used or acquired for use by any person, which sale is of a duration of less than three days and which sale is more than 12 months from any previous such sale on the same premises. (Ord. 3055 § 1, 2007; Ord. 2491 § 4, 1986)

5.16.050 Application requirements.

The applicant for a secondhand dealer's license shall provide the information required on the city's secondhand dealer license application, and the appropriate nonrefundable license fee, at least 30 days prior to the date the license is requested to be effective. The application shall require:

(1) The name, address, telephone number, date of birth, and principal occupation of the applicant.

~~(2) If the proposed business is a partnership, corporation, limited liability company, or any other business entity recognized by the state of Oregon, the names, addresses, and dates of birth of all partners, officers, directors, members, or any other person who will be directly engaged or employed in the management or operation of the entity. If the applicant intends to conduct the business under an assumed name, the assumed name also shall be stated. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.~~

~~(a) If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principal occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each;~~

~~(a)(b) If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates,~~

telephone numbers, and principal occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each.

(3) The address of the place where the licensee will conduct his business and a statement of the kind of business which the applicant intends to conduct.

(4) The web address of any and all web pages used to acquire or offer for sale regulated property on behalf of the secondhand dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the secondhand dealer.

(5) Written proof that all principals are at least 18 years of age.

(6) Each principal's business occupation or employment for the 3 years immediately preceding the date of application.

(7) The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 5.16.

(8) If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application.

(9) All arrests or convictions of each principal enumerated in paragraphs 1 through 7 of this Section.

~~(2)~~(10) Upon request, principals and employees shall submit to the chief of police the following information: fingerprints, passport size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the chief of police.

~~(3)~~(11) Any other information appropriate to determine the ownership, location, management, purpose, and any other factors related to the operation of a secondhand dealer, and the appropriate non-refundable secondhand dealer license fee as set by resolution.

~~(4)~~(12) The applicant to sign under penalty of perjury and false swearing. (Ord. 3055 § 2, 2007; Ord. 2491 § 5, 1986)

5.16.055 License characteristics.

(1) Nontransferable. A license issued pursuant to this chapter is nontransferable.

(2) Revocable. A license issued pursuant to this chapter may be revoked as provided in SHMC 5.16.155 and 5.16.160. (Ord. 3055 § 3, 2007)

5.16.060 ~~Police-approved register to be kept~~ Reporting of Transactions.

Every pawnbroker and secondhand dealer shall provide the police department all required information as set forth by the police department for each regulated property transaction (not including sales) on the same day as the regulated property transaction occurs. The chief of

police may designate the format for the transfer of this information and may direct that it be communicated to the police department by means of mail, the internet, or other computer media. keep a book record of all articles purchased or received by him, which record shall at all times during business hours be open to the inspection of any police officer.

(1) In any such case that the chief of police directs that the information be transmitted via computer media, the chief of police may also direct the system that will be utilized 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 chief of police alters the required format, secondhand dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a secondhand dealer must submit a written request for additional time to the chief of police before the deadline.

(3) Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.

(4) Secondhand dealers and pawnbrokers may request an exemption from the standard reporting format. This exemption will allow secondhand dealers and pawnbrokers to, as an alternative, submit their transactions on transaction report forms created by the chief of police. The request for this exemption must be made in writing to the chief of police. The police department will provide all secondhand dealers with transaction report forms at cost until 60 days after such time that the chief of police directs a change in the reporting method. The chief of police may specify the format of the transaction report form. The chief of police may require that the transaction report form include any information relating to the regulations of this Chapter. Secondhand dealers may utilize their own forms, in lieu of those supplied by the police department, if the chief of police has approved such forms. The declaration of proof of ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate.

~~(1) — Such record shall include the signature and address of the person pledging any articles or things, or from whom the purchase is made by any pawnbroker or secondhand dealer licensed under the provisions of this chapter for all pledges or purchases on the business premises; for off-premises purchases, only the date and the address of the purchase must be recorded.~~

~~(2) — Such record shall show the hour of the day when such article was received on deposit, pledged or purchased, the number of the pawn ticket, amount loaned, if any, the amount of a purchase, and a complete description of each article left on deposit, pledged or purchased.~~

~~(3) — Each pawn ticket issued shall be numbered consecutively, and if stubs are used in connection with such pawn tickets, each stub shall be numbered consecutively to conform to the ticket.~~

~~(4) — If any article so left on deposit, pledged or purchased has engraved thereon any number, word or initial, or contains any setting of any kind, the description of such article in such record shall contain such number, word or initial and shall show the kind of settings and the number of each kind.~~

~~(5) — The record shall be made in the English language, in ink, in a clear, legible manner.~~

~~(6) — No secondhand dealer 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 in the city, but such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to the chief of police or any police officer upon written order of the chief of police.~~

~~(7) — The record concerning articles or material shall be kept for at least one year after the date of receipt of such articles or material at the places of business.~~

~~When any licensee discontinues his business, such records or duly authenticated copies thereof shall be delivered to the city of St. Helens or disposed of as directed by it. (Ord. 2491 § 6, 1986)~~

5.16.070 Record forms.[Reserved]

~~In addition to other records and reports required to be kept by this title, all pawnbrokers and secondhand dealers shall, at the time of taking, receiving or purchasing any article in the business for which he is licensed, place the description of the following articles or things pledged, pawned, received or purchased upon a form which shall be provided by the police department:~~

~~(1) — Jewelry, gems, or precious metals with market value over \$30.00.~~

~~(2) — TV, video, and stereo equipment.~~

~~(3) — Cameras and camera equipment.~~

~~(4) — Firearms, operable or not operable.~~

~~(5) — Nonfurniture antique pieces with a market value over \$200.00.~~

~~(6) — Power tools.~~

~~The form provided herein shall be of such size, shape and color and shall require such information as the chief of police and city council may direct. The description of any article pledged, pawned, received or purchased shall be such description as may be called for by the form. The pawnbroker or dealer shall fill in the blank spaces on such form with such data as is required by the form.~~

~~Every person coming within the provisions of this section shall deliver to the chief of police of the city, every Monday before the hour of 12:00 noon, all of such forms describing goods, articles or things pledged, pawned, bought, taken or received by him during the preceding week. All of such forms must be fully completed in the manner specified in this section. (Ord. 2491 § 7, 1986)~~

5.16.080 Regulated Pproperty sales.

(1) Regulated property is subject to the following limitations:

(a) Holding period: Regulated property acquired by any secondhand dealer or pawnbroker must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of 5.16.080 because of the redeemable nature of the loans and the holding requirements in

ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of 5.16.080 remain in effect.

(b) Requirements of held property: All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the police department. Held property must be kept at the business location during this holding period so that it can be inspected during normal business hours (as provided in Section 5.16.150). Held property, other than property on police hold, may be held in a place within public view, as long as the other requirements of A.2 are met.

(c) Held property requirements do not apply if:

(i) The property is received from a secondhand dealer or pawnbroker regulated by the City of St. Helens who has already satisfied the holding requirements of this chapter and the secondhand dealer or pawnbroker records the original transaction report number on the transaction report completed for the new transaction, or

(ii) If a customer, who originally purchased property from a secondhand dealer or pawnbroker, returns it to that secondhand dealer or pawnbroker with the original receipt.

(2) Notwithstanding Subsection 5.16.080 A., the chief of police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in the administrative policies and procedures available at the police department.

(3) Upon reasonable belief that an item of regulated property is the subject of a crime, any police officer may provide notice to any secondhand dealer or pawnbroker that a specifically described item of regulated property must be held in a separate police hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of subsection A.2 above. The hold may be extended an additional 30 days upon notice provided to the secondhand dealer or pawnbroker that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The secondhand dealer or pawnbroker shall comply with the hold notice and notify the police department of the hold notice not later than five calendar days from the day the notice was received, either by telephone, fax, email, or in person. A secondhand dealer or pawnbroker must notify the police department of their intent to dispose of any item of regulated property under police hold at least 10 days prior to doing so.

(a) A police hold area must meet the following criteria:

(i) Located out of public view and access, and

(ii) Marked "Police Hold," and

(iii) Contain only items that have been put on police hold.

(b) Secondhand dealers and pawnbrokers may maintain up to three police hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on police hold.

(c) If it is not possible or practical to move an item to or store an item in the police hold area, a secondhand dealer or pawnbroker may submit a written request to the chief of police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on police hold and kept from public view and access.

(4) Upon probable cause that an item of property is the subject of a crime, the chief of police may take physical custody of the item or provide written notice to any secondhand dealer or pawnbroker to hold such property for a period of time as determined by the chief of police, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in A.2 of this subsection, and will be maintained in the police hold area unless seized or released by the police department. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

(5) If a secondhand dealer or pawnbroker acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the secondhand dealer or pawnbroker shall continue to hold the property at the business location for a period of 90 full days after acquisition. The secondhand dealer or pawnbroker must notify the police department by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the chief of police. The held property must conform to all the requirements found in A.2 of this subsection.

(6) If a secondhand dealer or pawnbroker receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the police department by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.

(7) If a peace officer seizes any property from a secondhand dealer or pawnbroker; the secondhand dealer or pawnbroker must notify the police department of the seizure not later than five calendar days from the day the seizure occurs. The secondhand dealer or pawnbroker must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the police department may be given by telephone, fax, email, or in person.

(8) Any property purchased by the dealer which is proven to be stolen property may be seized by the police department and may not be released to anyone other than the Dealer secondhand dealer or pawnbroker unless the property is released to:

(a) Another law enforcement agency that has provided documentation to the satisfaction of the Chief of Police of the stolen status of the property, or

(b) A person who reported the property as stolen; and

(i) A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

(ii) A notice has been delivered to the ~~secondhand dealer or pawnbroker Dealer~~ holding the property or from whom the property was seized.

(c) The notice required by this subsection will state that the property will be released to the person who has filed the stolen property report unless the ~~secondhand dealer or pawnbroker Dealer~~ or pawnner/seller files a motion for return of seized property within 10 days of the date of the notice and in the manner set forth in the notice.

(d) The notice required by this subsection will be sent electronically with a request for acknowledgement, or delivered in person to the ~~secondhand dealer or pawnbroker Dealer~~ at the email or physical address shown on the ~~secondhand dealer's or pawnbroker's Dealer's~~ permit application or most recent permit renewal application, and to the pawnner/seller at the address shown in the transaction report required by Section ~~14B.0905.16.060~~.

(e) The notice required by this subsection will provide the information necessary to submit a motion for return of seized property.

(f) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

~~No property listed in SHMC 5.16.070 shall be sold from the pawnbroker or secondhand dealer's place of business for seven full days after purchase. (Ord. 2491 § 8, 1986)~~

5.16.090 ~~[Reserved] Sale postponed by chief of police.~~

~~Whenever the chief of police, or any police officer, on the written order of the chief of police, a copy of which order shall be served, shall notify any pawnbroker or secondhand dealer not to sell any property received on deposit or purchased, or permit the same to be redeemed, the property shall not be sold, permitted to be redeemed, or otherwise disposed of until such time as may be determined by the chief of police, not exceeding 15 days from the day of notice aforesaid. Any property purchased by the dealer which is proven to be stolen property may be seized by the police department and may be returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the city. (Ord. 2491 § 9, 1986)~~

5.16.100 Article to be tagged.

~~Any pawnbroker or secondhand dealer shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the police department or assigned by the approved reporting method described in the police department's administrative policies and procedures. After the holding period has expired, the transaction number must remain identifiable on the property until the sale of the property. receiving in-pledge, by purchase, or otherwise, any article or goods shall affix to the article or goods a tag upon which shall be written a number in legible characters, which number shall correspond to the number in the book required to be kept as heretofore provided or provide an alternative form of identifying article to correspond to the book record approved by the chief of police. (Ord. 2491 § 10, 1986)~~

(1) After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.

(2) After the applicable holding period has expired, items that are remanufactured need not remain tagged.

5.16.110 ~~[Reserved] Exhibiting signs before obtaining license prohibited.~~

~~No person or persons shall exhibit any sign usually known as a "pawnbroker's sign," such as three balls, or any number of balls, or advertise as a pawnbroker or secondhand dealer without first obtaining from the city the license required by this title for such business. (Ord. 2491 § 11, 1986)~~

5.16.120 Advertising~~[Reserved]~~.

~~Secondhand dealers shall not advertise any feature of their business as rummage sales. (Ord. 2491 § 12, 1986)~~

5.16.130 Dealings with minors~~Prohibited Acts.~~

(1) It is unlawful for any person regulated by Chapter 5.16:

(a) To receive any property from any person:

(i) Known to the principal, employee or secondhand dealer or pawnbroker to be prohibited from selling by a court order,

(ii) Under the age of 18 years unless the person's parent or guardian complete the applicable information on the declaration of proof of ownership,

(iii) About whom the principal, employee or secondhand dealer or pawnbroker has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another who meets the above criteria;

(b) To receive property prohibited by this chapter or the police department's administrative policies and procedures, including:

(i) Medications;

(ii) Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible.

(c) To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen, except as allowed by the police department's administrative policies and procedures. A later determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a secondhand dealer or pawnbroker has violated this subsection.

~~No pawnbroker or secondhand dealer shall buy or receive on deposit, or for pledge, any article or thing whatsoever from any person under the age of 18; nor shall any pawnbroker or secondhand dealer sell to any person under 18 years of age any knife having a blade that~~

~~projects or swings into position by force of spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, sling shot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person. (Ord. 2676, 1994; Ord. 2491 § 13, 1986)~~

5.16.140 ~~Redemption period~~[Reserved].

~~It shall be the duty of every pawnbroker to allow any person accepting a loan for less than \$30.00 a period of six months in which to pay for same before the same becomes forfeitable; and all sums over \$30.00 a period of one year before the same becomes forfeitable. (Ord. 2491 § 14, 1986)~~

5.16.150 Inspection of articles and records.

All persons licensed to do business as a pawnbroker, an antique dealer or secondhand dealer, and any person employed thereby, shall permit the chief of police, or his designee, upon presentation of official identification, entry to such business premises for the limited purpose of inspecting any articles regulated property purchased or for sale in the business ~~as regulated by this chapter~~ and currently being held ~~pursuant to SHMC 5.16.070~~ and/or the records incident thereto, to ensure compliance with the provisions of this chapter. Any such inspection shall only be authorized during normal business hours. The chief of police, or his authorized designee, will first present proper credentials to the appropriate party and request entry. If such entry is refused, the chief of police, or his authorized designee, will have recourse to any remedy provided by law to obtain entry. (Ord. 3055 § 5, 2007; Ord. 2491 § 15, 1986)

5.16.155 Denial and revocation criteria.

Upon the application for a license by a pawnbroker or secondhand dealer, the city recorder shall refer the same to the city police for investigation preparatory to issuing a license. If it shall appear from such investigation or otherwise that a pawnbroker or secondhand dealer license should not be granted to said applicant or applicants, the chief of police shall notify the city recorder to that effect. The chief of police shall set forth the criteria given in this section that support his decision to deny a license. The applicant may appeal from this finding in accordance with SHMC 5.16.165, but while the appeal is pending a license shall not be granted. The city may deny or revoke a license on a finding that:

- (1) The applicant fails to meet the requirements of this chapter, or is doing business in violation of this chapter, zoning regulations, or applicable federal, state, or local law.
- (2) The applicant has provided false or misleading information, or has omitted disclosure of a material fact on the application, related materials, or license.
- (3) The applicant does not have the state-issued license required by ORS 726.040 and the applicant is applying for a license to conduct a pawnbroker business as defined in SHMC 5.16.040(3).
- (4) The applicant's past or present violations of law consist of crimes of moral turpitude, including, but not limited to, theft or the receipt of stolen property. (Ord. 3159 § 1, 2012; Ord. 3055 § 4, 2007)

5.16.160 Revocation and suspension procedure.

- (1) When any licensee fails to comply with any provision of this chapter, the city

administrator may, by order, revoke or suspend any license granted by the city. Before taking any such action, the city shall set a time for the licensee to appear before it to be heard, either in person or by attorney, in opposition to such action. The city administrator shall give the licensee at least 10 days' notice by registered mail addressed to the licensee at his last address, as shown by the license records, of the time of the hearing, of the action intended to be taken and the reason for such action. Within 30 days after such hearing, the city administrator shall make and enter in city records an order setting forth its findings, determination and action, notice of which shall be given the licensee by mailing a copy thereof by registered mail to the licensee at his last address as shown by the license records. The licensee shall have the right to appeal such determination in accordance with SHMC 5.16.165.

(2) In the event a licensee is convicted for any violation of this chapter, such conviction shall be sufficient ground for summary suspension or revocation of his license without notice and hearing by order made and entered as provided in subsection (1) of this section. (Ord. 3055 § 5, 2007; Ord. 2491 § 16, 1986)

5.16.165 Appeals.

Any person aggrieved by the city's decision to deny or revoke their secondhand dealer license may appeal such action to a hearings officer through the following procedures:

(1) A person appealing the city's action shall, within 10 days of such action and notice, file a written notice of appeal with the city recorder. The written notice shall include: the name and address of the appellant, the nature of the decision being appealed, the reason(s) the original decision is alleged to be incorrect, and the result the appellant desires on appeal.

(2) The city recorder shall fix the time for the appeal to be heard by the hearings officer, place the hearing of the appeal upon the calendar of the hearings officer, and notify the appellant of the time fixed no less than 10 days prior to that time.

(3) The appellant shall pay a nonrefundable appeals fee, [set by resolution of the city council](#), to facilitate the appeal.

(4) The appellant shall be entitled to appear personally, or by counsel, to present such facts and arguments as may tend to support his or her appeal.

(5) The hearings officer shall take such action upon the appeal as he or she sees fit and such action by the hearings officer shall be final.

(6) A decision to revoke a license made by the city shall be stayed pending the outcome of an appeal properly filed pursuant to this section. However, a decision to deny a license made by the city shall be enforced pending the outcome of an appeal properly filed pursuant to this section.

(7) Failure to strictly comply with the applicable appeal requirements, including, but not limited to, the required elements for the written notice of appeal, time for filing, and payment of the applicable appeal fee, shall constitute jurisdictional defects resulting in the summary dismissal of the appeal.

(8) If the appellant loses on appeal, the appellant will be held financially responsible for the cost to the city of the appeal, including, but not limited to, the hiring of the hearings officer, if any.

(Ord. 3055 § 4, 2007)

5.16.170 Penalties.

A violation of any of the provisions of this chapter shall constitute a Class C misdemeanor. (Ord. 3055 § 13, 2007; Ord. 2491 § 17, 1986)

5.16.180 Injunction.

Any violation of the provisions of this chapter may be restrained or enjoined by suit in circuit court. (Ord. 2491 § 18, 1986)

5.16.190 Administrative Policies and Procedures

The chief of police may implement the requirements and specifications of this chapter. Administrative policies and procedures stemming from this chapter will be maintained by the police department and copies will be provided to all secondhand dealers and pawnbrokers.