

Further ensure compliance by Secondhand Dealers
(Ordinance; Amending Chapter 14.37)

The City of Portland ordains:

Section 1. The Council finds:

1. Chapter 14.37 of the Code of the City of Portland was first adopted April 23, 1981 by Ordinance No. 151449 in an attempt to control the flow of stolen personal property in the City of Portland. Chapter 14.37 was amended August 28, 1986 by Ordinance No. 158945 and again on April 27, 1989 by Ordinance No. 161852 as a means of further ensuring compliance by Secondhand Dealers.
2. The Task Force on Controlling Distribution of Stolen Property was formed by the Commissioner of Public Safety to review the effectiveness of the City's regulations in controlling the distribution of stolen goods.
3. The Task Force, after meeting and conducting a public hearing, issued a report attached to this ordinance as Exhibit A.
4. The Task Force Report found that Portland has a serious burglary problem relating to theft of property from homes, businesses, automobiles, retail stores, and individuals.
5. The Task Force Report found that thieves and burglars need to convert stolen property to cash quickly.
6. The Task Force believes that the dramatic increase in the number of secondhand stores is related to the growth in the burglary/theft rate, because the stores make it easier to convert stolen property to cash.
7. The Task Force believes that some secondhand store operators actively deal in stolen property and go to extreme measures to circumvent existing laws and regulations.
8. The Task Force recommends specific actions be taken and that the Secondhand Dealer Code be amended as follows: all purchases of regulated property should be regulated, whether the transaction occurs at the business or off-premises; the offering of regulated items for sale should be regulated; a new permit should be created for "occasional dealers" who only deal in regulated items on a limited basis; and the means for the City to deny applications should be improved.
9. The Council accepts the Task Force recommendations.

- a. That Chapter 14.37, Precious Metal and Gem Dealers and Secondhand Dealers, is hereby repealed, and a new chapter substituted as follows:

Chapter 14.37

**OCCASIONAL SECONDHAND DEALERS
AND SECONDHAND DEALERS**

Sections:

- 14.37.010 Purpose.
- 14.37.020 Definitions.
- 14.37.030 Permit Required.
- 14.37.040 Application for Permit.
- 14.37.050 Issuance and Renewal of Permit.
- 14.37.060 Permit Fees.
- 14.37.070 Subsequent Locations.
- 14.37.080 Seller Identification; Purchase Report Forms.
- 14.37.090 Regulated Property Sale Limitations.
- 14.37.100 Tagging Regulated Property for Identification.
- 14.37.110 Inspection of Property and Records.
- 14.37.120 Prohibited Acts.
- 14.37.130 Penalties.
- 14.37.140 Revocation or Suspension of Regulated Business Permit.
- 14.37.150 Appeals.
- 14.37.160 Maintenance of Business in Violation Declared a Nuisance; Abatement.

14.37.010 Purpose. The Council's purpose in adopting this Chapter is to strictly regulate certain business activities that present an extraordinary risk of being used to conceal criminal behavior including the theft of property. The Council finds that this risk is present despite the best efforts of legitimate businesses because these businesses process large volumes of goods and materials that are frequently the subject of theft. This Chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. The Council finds that these regulations are necessary and the need for the regulations outweighs any anti-competitive effect that may result from their adoption.

14.37.020 Definitions. As used in this Chapter, unless the context requires otherwise:

A. "Acceptable identification" means either a valid driver's license, or two pieces of identification issued by a government agency,

one of which shall include a physical description and a photograph of the person from whom the secondhand goods are being purchased.

B. "Chief of Police" means the Chief of the Portland Bureau of Police or his or her designee.

C. "Criminal arrests or convictions" means any offense defined by the statutes of the State of Oregon or ordinances of the City of Portland, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Portland, as specified herein, shall be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or Portland ordinance provisions.

D. "Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

E. "Manager" means the Business Licenses Manager of the Portland Bureau of Licenses or his or her designee.

F. "Occasional secondhand dealer" means any person:

1. who engages in, conducts, manages, or carries on a business required to have a business license under Title 7 of this Code; and,
2. who purchases or offers for sale no more than 50 items of regulated property in any one year period; and,
3. who purchases regulated property at or from business premises located within the City of Portland, or on behalf of such a business regardless of where the purchase occurs.

G. "Person" means any real person, or any partnership, association, organization, or corporation.

H. "Purchase" means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales, consignments, leases, trade-ins, loans or any transfer involving a condition of selling the property back at a stipulated price in the future. "Purchase" does not include any loans made in compliance with state laws by pawn brokers licensed by the State of Oregon.

I. "Secondhand dealer" means any person:

1. who engages in, conducts, manages, or carries on a business required to have a business license under Title 7 of this Code; and,
2. who purchases or offers for sale 51 or more items of regulated property in any one year period; and,
3. who purchases regulated property at or from business premises located within the City of Portland, or on behalf of such a business regardless of where the purchase occurs.

J. "Regulated property" means any of the following property which is used or secondhand:

1. Precious metals including but not limited to: any metal that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, or any other such metals, whether as a separate item or in combination as a piece of jewelry.

2. Precious gems including but not limited to: any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such precious or semi-precious gems or stones, whether as a separate item or in combination as a piece of jewelry.

3. Watches and jewelry containing precious metals or precious gems including but not limited to: rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wrist watches, or stop watches.

4. Sterling silver including but not limited to: flatware, candleholders, coffee and tea sets, or ornamental objects.

5. Audio equipment including but not limited to: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, car stereos, car speakers, radar detectors, or citizen band radios/transceivers.

6. Video equipment including but not limited to: color televisions, black and white televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, or video monitors.

7. Photographic and optical equipment including but not limited to: cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment.

8. Electrical office equipment including but not limited to: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers, modems, monitors, or any computer equipment or accessories.

9. Power yard and garden tools including but not limited to: garden tractors, lawn-mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, or blowers.

10. Power equipment and tools including but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, or logging equipment.

11. Automotive hand tools including but not limited to: wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, or timing lights.

12. Musical instruments including but not limited to: pianos, organs, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, or electronic synthesizers.

13. Firearms including but not limited to: rifles, shotguns, hand guns, revolvers, pellet guns, or BB guns.

14. Telephones or telephone equipment limited to office telephones, portable home telephones, mobil telephones, cellular telephones, or answering machines.

15. Sporting equipment limited to bicycles, golf clubs, skis, and ski boots.

16. Outboard motors, props, and outdrives.

17. Regulated property does not include any of the following property:

- a. Vehicles required to be registered with the Oregon Motor Vehicles Division;
- b. Boats required to be certified by the Oregon Marine Board;
- c. Books;
- d. Glassware;
- e. Furniture;
- f. Refrigerators, stoves, washers, dryers and other similar major household appliances.
- g. Property which is purchased by a bona fide business for investment purposes, limited to:
 - (1) Gold bullion bars (0.995 fine or better);
 - (2) Silver bullion bars (0.995 fine or better);
 - (3) All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency; or
 - (4) Postage stamps, stamp collections and philatelic items.

14.37.030. Permit Required.

A. No person shall engage in, conduct or carry on an occasional secondhand dealer business or a secondhand dealer business in the City without a valid occasional secondhand dealer permit or a valid secondhand dealer permit issued by the Bureau of Licenses.

B. Upon purchasing 50 items of regulated property during any one year period, an occasional secondhand dealer shall apply for and obtain a secondhand dealer permit before purchasing any more items of regulated property.

C. Any person who advertises or otherwise holds themselves out to be purchasing regulated property within the City shall be presumed to be operating a business subject to the terms of Chapter 14.37.

14.37.040 Application for Permit.

A. An application for an occasional secondhand dealer's permit or a secondhand dealer's permit shall set forth the following information:

1. The name, address, telephone number, birth date and principal occupation of the applicant and any other person who will be directly engaged or employed in the management or operation of the business or the proposed business;

2. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;

3. Written proof that the applicant is at least 18 years of age;

4. The applicant's business occupation or employment for the 3 years immediately preceding the date of application;

5. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 14.37 or Chapter 14.38;

6. A brief summary of the applicant's business history in this city or any other city or state including:

(a) the business license or permit history of the applicant; and,

(b) whether the applicant has ever had any license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant subsequent to the suspension or revocation.

7. If the business or proposed business is the undertaking of a sole proprietorship, partnership or corporation:

a. If a partnership, the application shall 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.

b. If a corporation, the application shall set forth the corporate name, copies of the articles of incorporation and the corporate by-laws, 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 and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;

8. Any criminal arrests or convictions relating to fraud or theft of each applicant and all natural persons enumerated in paragraphs 1 through 7 of this Section; and,

9. Any other information which the Manager of the Bureau of Licenses may reasonably feel is necessary to accomplish the goals of this Chapter.

B. The personal and business information contained in the application forms required pursuant to Section 14.37.040.A. shall be treated as confidential and exempted from disclosure to the maximum extent permitted by law.

14.37.050 Issuance and Renewal of Permit.

A. Upon the filing of an application for an occasional secondhand dealer or secondhand dealer permit and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant. The Manager shall issue the permit within 90 days of receiving the application if no cause for denial exists.

B. The Manager shall deny an application for an occasional secondhand dealer's permit or a secondhand dealer's permit if:

1. The applicant, any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business has previously owned

or operated a business regulated by Chapter 14.37 or Chapter 14.38; and,

a. The license or permit for the business has been revoked for cause which would be grounds for revocation pursuant to Chapter 14.37; or,

b. The business has been found to constitute a public nuisance and abatement has been ordered; or,

c. Any of the persons involved in the business has been convicted of any criminal offense noted in Section 14.37.040.A.8. or Section 14.37.120.; or,

d. Evidence exists that supports a finding by a preponderance of the evidence that any of the persons involved in the business has committed any criminal offense noted in Section 14.37.040.A.8. or Section 14.37.120.

2. The operation as proposed by the applicant would not comply with all applicable requirements of the Portland City Code including but not limited to: the building, health, planning, zoning and fire codes of the City.

3. Any statement in the application is found to be false or any required information is withheld.

4. Any employee is found to have committed any criminal offense relating to fraud or theft and the offense either occurred on the premises of the business subject to the permit or was connected in a time and manner with the operation of the business so that the person in charge of such business knew, or should reasonably have known, that such violation would occur.

5. Evidence exists to support a finding that either:

a. the location of the business for which the application has been filed has a history of violations of the provisions of this Chapter; or,

b. a statistically significant record exists of criminal offenses relating to fraud or theft in the area located within 500 feet of the premises.

C. Notwithstanding Section 14.37.050.B., the Manager may grant a permit with the concurrence of the Chief of Police despite the presence of one or more of the enumerated factors if the applicant establishes to the Manager's satisfaction that:

1. The behavior evidenced by such factor is not likely to recur;

2. The behavior evidenced by such factor is remote in time; and,

3. The behavior evidenced by such factor occurred under circumstances which diminish the seriousness of the factor as it relates to the purpose of Chapter 14.37.

D. Occasional secondhand dealer permits and secondhand dealer permits shall be for a term of one year and shall expire on the first anniversary of their issuance. The permits shall be nontransferable and shall be valid only for a single location. When the business location is to be changed, the permit holder shall provide the address

of the new location in writing to the Bureau of Licenses for approval at least 10 days prior to the change.

E. All occasional secondhand and secondhand dealer permits shall be displayed on the business premises in a manner readily visible to patrons.

F.1. The Manager, upon denial of an application for an occasional secondhand dealer's permit or a secondhand dealer's permit, shall give the applicant written notice of the denial by causing notice to be served upon the applicant at the business or residence address listed on the application.

2. Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Manager, by personal service in the same manner as a summons served in an action at law.

3. Refusal of the service by the person whose permit is denied shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

4. The denial shall be effective and final the date the notice is received by applicant as evidenced by the Return Receipt or the Return of Service.

G. Denial of a permit may be appealed to the City Council by filing written notice of an appeal with the Auditor within 10 days of the date of denial in accordance with Section 14.37.150.

14.37.060 Permit Fees.

A. Every person engaged in, conducting or carrying on an occasional secondhand dealer business shall:

1. For an occasional secondhand dealer's permit, file an application with the Bureau of Licenses and pay a nonrefundable fee of \$25.00.

2. For renewal of an occasional secondhand dealer's permit, shall pay a nonrefundable fee of \$25.00.

B. Every person engaged in, conducting or carrying on a secondhand dealer's business shall:

1. For a secondhand dealer's permit, file an application with the Bureau of Licenses and pay a nonrefundable fee of \$150. The Manager shall allow occasional secondhand dealers to credit the \$25.00 occasional secondhand dealer application fee against the charge for the secondhand dealer application fee.

2. For renewal of a secondhand dealer's permit, pay a nonrefundable fee of \$75.00.

14.37.070 Subsequent Locations.

A. The holder of a valid occasional secondhand dealer's permit or a secondhand dealer's permit shall file an application for a permit for an additional location with the Bureau of Licenses and shall not be required to pay any fee provided the information required for the subsequent location is identical to that provided in the application

for the prior location with the exception of that required by Section 14.37.040.A.6.

B. Permits issued for subsequent locations shall be subject to all the requirements of this Chapter, and the term of the permit issued for a subsequent location shall expire on the same date as the initial permit.

14.37.080 Seller Identification; Purchase Report Forms.

A. The Bureau of Police shall provide all occasional secondhand dealers and secondhand dealers with purchase report forms at cost. The Chief of Police may specify the size, shape and color of the purchase report form. The Chief of Police may require the purchase report forms to provide any information relating to the regulations of this Chapter. Occasional secondhand dealers and secondhand dealers may utilize their own forms, in lieu of those supplied by the Bureau of Police, if such forms have been approved by the Chief of Police.

B.1. When purchasing regulated property, occasional secondhand dealers and secondhand dealers shall obtain acceptable identification and a current residential address from the seller.

2. All occasional secondhand dealers and secondhand dealers shall write a description of the purchased property upon a purchase report form, at the time of purchasing any item of regulated property. The description of the purchased property shall be as called for by the purchase report form. All occasional secondhand dealers and secondhand dealers shall fill in all of the blank spaces on the purchase report forms with the data required by the form and require the person selling any regulated property to sign his or her name on the form. All purchase report forms shall be filled out in clearly legible, printed English.

3. The information required to be furnished on purchase report forms is to assist in the investigation of the theft of property. The information is of a confidential nature and related to the personal privacy of persons doing business with the dealer, as well as certain trade secrets and practices of occasional secondhand dealers and secondhand dealers. The information shall be treated as confidential and exempt from disclosure to the maximum extent possible under applicable laws.

C. All occasional secondhand dealers and secondhand dealers shall mail or deliver to the Chief of Police at the close of each business day the original and second copy of all report forms describing articles purchased during that business day.

D. The third copy of all completed report forms shall be retained by occasional secondhand dealers and secondhand dealers for a period of not less than 1 year from the date of purchase on their business premises.

14.37.090 Regulated Property Sale Limitations.

A. No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 15 full days after the date of purchase. The dealer shall maintain the purchased

property in substantially the same form as purchased and shall not commingle the property to preclude identification during this 15 day holding period. The purchased property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in Section 14.37.110. Notwithstanding this requirement, the Chief of Police may authorize the sale or transfer of an item of purchased regulated property before the expiration of this period, in cases in which the dealers shows that extreme financial hardship will result from holding such property for the 15 day period.

B. The Chief of Police may provide written notice, upon reasonable belief that the purchased property is the subject of theft, to any occasional secondhand dealer or secondhand dealer not to dispose of any specifically described property purchased. The dealer shall retain the property in substantially the same form as purchased. The dealer shall not sell, exchange, dismantle or otherwise dispose of the property for a period of time as determined by the Chief of Police, not to exceed 180 days from the date of purchase.

C. If an occasional secondhand dealer or secondhand dealer purchases regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which are or have been altered, obliterated, removed, or otherwise rendered illegible, the occasional secondhand dealer or secondhand dealer shall hold the property on the business premises for a period of 90 full days after purchase. The dealer shall maintain the purchased regulated property in substantially the same form as purchased and shall not commingle the property so as to preclude identification during this 90 day holding period. The property shall be located on the business premises during normal business hours during this holding period so that it can be inspected, as provided in Section 14.37.110.

14.37.100 Tagging Regulated Property for Identification. Any occasional secondhand dealer or secondhand dealer purchasing any regulated property shall affix to the property, during the holding period required by Section 14.37.090, a tag upon which shall be written a number in legible characters. The number shall correspond to the number on the purchase report forms required by Section 14.37.080.

14.37.110 Inspection of Property and Records. Upon presentation of official identification, the Portland Police Bureau or the Bureau of Licenses may enter onto the business premises of any person with an occasional secondhand dealer or secondhand dealer permit to ensure compliance with the provisions of Chapter 14.37. The inspection shall be for the limited purpose of inspecting any regulated property purchased by the dealer, held by the dealer pursuant to Section 14.37.090, or the records incident thereto. Any inspection shall be authorized to occur only during normal business hours.

14.37.120 Prohibited Acts.

A. It shall be unlawful for any person acting as owner, manager, agent, or employee of a business regulated by Chapter 14.37:

1. To engage in, conduct or carry on the operation of any occasional secondhand dealer business or secondhand dealer business within the City of Portland, unless a permit for the business has first been obtained from the Bureau of Licenses;

2. To fail to obtain acceptable identification from the person selling any regulated property;

3. To fail to have the person selling any regulated property sign the purchase report form describing the article purchased;

4. To fail to retain on the business premises a copy of the purchase report form describing the purchased regulated property for a period of 1 year from the date of purchase;

5. To fail to mail or deliver to the Portland Police Bureau at the close of each business day the original and second copy of all purchase report forms describing regulated property purchased during that business day;

6. To fail to include on the purchase report form all readily available information required by the form;

7. To fail to withhold from sale any regulated property for the required holding period after purchase;

8. To fail, after purchasing regulated property, to retain the property on the business premises for the required holding period after its purchase;

9. To refuse to allow inspection by the Portland Police Bureau or by the Bureau of Licenses of any regulated property being retained pursuant to Chapter 14.37;

10. To refuse to allow inspection by the Portland Police Bureau or the Bureau of Licenses of any records required by Chapter 14.37;

11. To fail to have affixed to any purchased regulated property, during the required holding period, a tag upon which is written a number in legible characters which corresponds to the number on the purchase record form required by Chapter 14.37; or,

12. To continue activities as an occasional secondhand dealer or secondhand dealer after suspension or revocation of a permit.

B. Any violation of any prohibited act listed in Section 14.37.120.A. is punishable, upon conviction, by a fine of not more than \$500 and a jail sentence of up to one year.

14.37.130 Civil Penalties. Notwithstanding the provisions of Section 14.37.120, the Manager may seek civil penalties for violations of Chapter 14.37 in accordance with the following schedule:

A. To engage in, conduct or carry on the operation of any occasional secondhand dealer business or secondhand dealer business within the City of Portland, unless a permit for such business has first been obtained from the Bureau of Licenses: The penalty shall be \$500 per day.

B. To fail to obtain acceptable identification from the person selling regulated property: The penalty shall be \$100 per occurrence.

C. To fail to have the person selling any regulated property sign the purchase report form describing the purchased property: The penalty shall be \$100 per occurrence.

D. To fail to retain on the permitted business premises a copy of the purchase report form describing the purchased regulated property for a period of one year from the date of purchase: The penalty shall be \$100 per occurrence.

E. To fail to mail or deliver to the Portland Police Bureau at the close of each business day the original and second copy of all purchase report forms, describing regulated property purchased during that business day: The penalty shall be \$100 per occurrence.

F. To fail to include on the purchase report form all readily available information as required by the form: The penalty shall be \$100 per occurrence.

G. To fail to hold from sale any purchased regulated property for the required holding period after purchase: The penalty shall be \$500 per occurrence.

H. Having purchased any regulated property, to fail to retain the property during normal business hours on the permitted business premises for the required holding period after its purchase: The penalty shall be \$500 per occurrence.

I. To fail to allow inspection by the Portland Police Bureau or by the Bureau of Licenses of any regulated property being retained pursuant to Chapter 14.37: The penalty shall be \$500 per occurrence.

J. To fail to allow inspection by the Portland Police Bureau or Bureau of Licenses of any records required by Chapter 14.37: The penalty shall be \$500 per occurrence.

K. To fail to have affixed to any purchased regulated property, during the required holding period, a tag upon which is written a number in legible characters which corresponds to the numbers on the purchase report form required by Chapter 14.37: The penalty shall be \$100 per occurrence.

L. To refuse to allow inspection by the Portland Police Bureau or the Bureau of Licenses of any business premises regulated by this Chapter: The penalty shall be \$500 per occurrence.

M. To continue activities as an occasional secondhand dealer or secondhand dealer after suspension or revocation of a permit: The penalty shall be \$500 per day.

N. For any other violation of the terms or provisions of Chapter 14.37 not otherwise set forth herein: The penalty shall be \$500 per day or occurrence.

14.37.140 Revocation or Suspension of Permit.

A. The Manager shall revoke or suspend any permit issued pursuant to this Chapter:

1. Upon the recommendation of the Chief of Police:

a. For any cause which would be grounds for denial of a permit;

b. Where investigation reveals that any violation of the provisions of Chapter 14.37 or any offense noted in Section 14.37.040 A(8) has been committed by any person and the offense is connected in

a time and manner with the operation of the business so that the person in charge of such establishment knew, or should reasonably have known, that such violations have been permitted to occur on the premises by the permit holder or any employee; or,

2. A lawful inspection has been refused; or,

3. Upon a finding by the Manager that the business activities cause significant litter, noise, vandalism, vehicular or pedestrian traffic congestion or other locational problems in the area around such premises; or,

4. If payment of civil penalties has not been received by the Bureau of Licenses within ten (10) working days after the penalty becomes final; or,

5. If any statement contained in the application for the permit is found to have been false.

B.1. The Manager, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the permittee written notice of such revocation or suspension by causing notice to be served upon the permit holder at the business or the residence address listed on the permit application.

2. Service of the notice shall be accomplished either by mailing the notice by certified mail, return receipt requested, or at the option of the Manager, by personal service in the same manner as a summons served in an action at law.

3. Refusal of service by the person whose permit is suspended or revoked shall be prima facie evidence of receipt of the notice. Service of notice upon the person in charge of a business during its hours of operation shall constitute prima facie evidence of notice to the person holding the permit to operate the business.

C. Suspension or revocation shall be effective and final 10 days after the giving of notice unless such suspension or revocation is appealed in accordance with Section 14.37.150.

14.37.150. Appeals.

A.1. The filing of a notice of appeal of revocation or suspension of a permit, or of a civil penalty imposed by the Manager under this Chapter shall stay the effective date of the action until the appeal is determined by the Council.

2. The notice of appeal shall state the name and address of the appellant to which all notices required herein may be mailed. The notice shall also indicate the reasons why the action was incorrect and what the correct determination should be.

3. The appellant shall be deemed to have waived the right to object and the appeal shall be dismissed if:

a. The notice of appeal is not filed within the specified time; or,

b. The notice of appeal does not otherwise conform to these requirements.

B.1. Upon receipt of the notice of appeal, the Auditor shall give notice of the filing of the appeal to the Manager who shall file

ORDINANCE No.

a report with the Council containing the reasons for the action. Upon receiving the Manager's report, the Auditor shall set a date for a Council hearing of the appeal and shall notify the appellant of the hearing date.

2. At the Council hearing, the Manager shall report to the Council the Bureau's reasons for the action. The appellant shall have the opportunity to present evidence and oral argument to Council and to file a written statement. A record shall be made of this hearing. At the conclusion of the hearing, the Council shall determine the appeal and direct that written findings be prepared. If the Council denies the appeal or the denial of the application, the revocation, suspension, or civil penalty, the action shall be effective upon the Council's signing the findings. The decision of the Council shall be final.

14.37.160 Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement. Any business maintained in violation of the provisions of this Chapter is hereby declared to be a public nuisance. The City Attorney is authorized to bring any action or suit to abate the nuisance by seeking injunctive or other appropriate relief to:

- A. Cease all unlawful activities; or
- B. Close the unlawful business establishment; or
- C. Return property obtained through unlawful activities to the rightful owners; or
- D. Seek payment of civil penalties assessed by the Manager of the Bureau of Licenses; or
- E. Seek such other relief as may be appropriate.

Passed by the Council, **MAR 22 1990**

Commissioner Dick Bogle
BEWalters:grm
March 8, 1990

Barbara Clark
Auditor of the City of Portland
By *Mary Flanagan* Deputy

Agenda No. ~~S-432~~

ORDINANCE No. 162855

Title

Further ensure compliance by
Secondhand Dealers (Ordinance;
amending Chapter 14.37)

MAR 15 1990

PASSED TO SECOND READING MAR 22 1990

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
BLUMENAUER	✓	
BOGLE	✓	
KOCH	✓	
LINDBERG	✓	
CLARK	✓	

FOUR-FIFTHS AGENDA	
BLUMENAUER	
BOGLE	
KOCH	
LINDBERG	
CLARK	

Filed MAR 15 1990

BARBARA CLARK
Auditor of the CITY OF PORTLAND

By Cay Kirschner
Deputy

INTRODUCED BY
Commissioner Dick Bogle

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety <i>Dick Bogle</i>
Utilities
Works

BUREAU APPROVAL
Bureau:
Bureau of Licenses
Prepared By: <i>Benjamin Walters</i> Date: 3/15/90
Ben Walters, Dep City Atty
Budget Impact Review:
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: <i>Dennis Nelson</i>
Dennis Nelson, Manager

AGENDA	
Consent	Regular

NOTED BY
City Attorney Ben Walters
City Auditor
City Engineer