

**BUSINESS GENERALLY**

## 60.100 PURPOSE.

Junk and second-hand dealers may knowingly or unknowingly be a conduit for the sale or purchase of stolen property. ORS 203.035 authorizes the regulation of junk and second-hand dealers by the County. The purpose of Chapter 60 is to provide for the peace, health, and safety of citizens of the County by among other things, regulating junk and second-hand dealers.

## 60.110 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

- (1) "Director" means the Director of the Community Development Department.
- (2) "Affected business" means an entertainment business, junk dealer, pawnbroker, and second-hand dealer, including any person renting or otherwise acquiring an area at an exposition for the purpose of engaging in entertainment, and any person dealing in junk or second-hand merchandise.
- (3) "Board" means the Board of Commissioners.
- (4) "Entertainment business" means any public dance hall, circus, or traveling show or exhibition.
- (5) "Exposition" means any combination wherein three or more individuals, firms, or corporations are gathered together for the purpose of engaging in the business of entertainment, the dealing in junk, or the dealing in second-hand merchandise.
- (6) "Licensed business" means any business licensed under this chapter.
- (7) "Public dance hall" means any building, room, hall, pavilion, tent or other place kept or maintained, or used for public dancing, or where anyone is given instruction in dancing for hire.
- (8) "Person" means any natural person, and any firm or corporation, including, but not limited to, persons renting or otherwise acquiring an area at an exposition or elsewhere for the purpose of providing entertainment, or dealing in junk, or dealing in second-hand merchandise.
- (9) "Second hand dealer" or "Junk dealer" means any person engaged in the business of buying, trading, or otherwise acquiring or selling, trading, or otherwise disposing of used or second-hand goods and personal property items for the purpose of reselling any parts or portions of, or the salvageable materials from, such goods or items of personal property, or for the purpose of reselling such goods or items in the same condition as when they were acquired, or after reconditioning or otherwise improving such goods or items, and any person engaged in a business which combines said purposes, except that second hand dealer or junk dealer shall not include:
  - (a) A person who conducts a single auction or sale on the premises where the goods have been stored or held by the owner of the goods;

- (b) A person engaged in the business of selling at auction livestock, poultry, or other agricultural products, or any auction mart or auctioneer licensed by the State Board of Auctioneers;
- (c) Any business that is licensed by the State of Oregon as a Dealer or Wrecker of vehicles under the provisions of Chapter 481, Oregon Revised Statutes, and which business is conducted exclusively as such Dealer or Wrecker of vehicles.

**(Licensing Procedures)**

**60.210 LICENSE REQUIRED.**

No person shall conduct or operate an affected business or advertise an affected business or advertise or otherwise hold out that he is conducting or operating an affected business in any area of the County outside the limits of an incorporated city, without first obtaining a license in the manner prescribed in this chapter. If any person conducts, operates, advertises, or holds out that he is conducting more than one kind of affected business, licenses shall be obtained for each affected business.

**60.215 LICENSE APPLICATIONS.**

Applications for all licenses required by this chapter shall be made in writing to the Director. Each application shall state the name and address of the applicant, the license desired, the location to be used, if any, and a schedule of the days and hours during which the affected business will be conducted. Forms for all licenses and applications, therefore, shall be prepared and kept on file by the Director.

**60.220 SIGNATURE.**

Each license issued shall bear the signature of the Director.

**60.225 INVESTIGATIONS.**

Upon receipt of an application for a license, the Director shall consult with the Sheriff and any other County officer deemed appropriate by the Director. The Sheriff or other officer shall conduct such investigation as may be necessary to determine whether the applicant is able to comply with the terms of this chapter. Each officer charged with the duty of making an investigation shall make a report to the Director within ten days after receipt of the referral.

**60.230 REVIEWING APPLICATION.**

In addition to the investigation required by Section 60.225, the Sheriff shall review the application and conduct whatever further investigation he deems necessary to determine whether the applicant has made adequate provision for:

- (1) The safe and expeditious movement of traffic going to and from the affected business, including provisions for parking, traffic control officers, lighting, and signs to eliminate unreasonable confusion, congestion, and hazard to traffic on the public highways; and

(2) The orderly movement and accommodation of spectators and the control of disorderly persons or groups.

#### 60.235 ISSUANCE OR DENIAL.

(1) Upon submission of a completed application and payment of all required fees, the Director, in his discretion, may issue a 30-day temporary license.

(2) If it appears to the Director that the applicant has complied with this chapter and if no adverse reports from investigation officers have been received within ten days after referral to County officers, the Director shall issue the annual license.

(3) If the applicant has not complied with this chapter, or if adverse reports have been received within the ten day period specified for investigations, the Director shall revoke the 30 day temporary license and shall refuse to issue the annual license. In such case, the Director shall send to the applicant a written notice of revocation/denial, together with reasons for same. The applicant, upon receipt of the written notice, is entitled to appeal to the Board. The Board shall proceed in the manner provided for appeals on franchise decisions under Sections 70.0706(5), (7) and (8), and 70.0708.

#### 60.240 LICENSE FEES.

(1) The license year for the purpose of fees is the calendar year. All fees for licenses shall be paid in advance at the time application is made to the Director, except as provided by Section 60.430. Fees collected under this chapter are to be used to offset costs of administering this chapter and are non-refundable.

(2) If the business activity of the affected business is solely for charitable purposes, the license fee may be waived by the Director.

(3) All license fees shall be prescribed by resolution of the Board.

#### 60.245 EXPIRATION OF LICENSES.

(1) All annual licenses shall expire on the last day of the calendar year.

(2) The Director shall mail to all annual license holders a statement of the time of expiration of the license held, and shall include in the mailing an application form for renewal of the license. The notice shall be mailed at least three weeks prior to the date of such expiration.

(3) Failure to mail the notice or failure of the licensee to receive the notice shall not excuse the licensee from obtaining a renewal of the license. Failure to send the notice or failure to receive the notice shall not be a defense in an action for operation without a license.

#### 60.250 LICENSE TRANSFER AND ASSIGNMENT.

Licenses are not transferable or assignable without the approval of the Director. The Director shall process an application for transfer or assignment of a license in the same manner as provided in Section 60.225 for an application for a new license. If the Director determines that the application for transfer or assignment is not in compliance with this chapter, or if he has received adverse reports

from County officers, he shall refer the question to the Board, which shall deal with the matter in the same way as provided for the issuance of licenses in Section 60.235.

#### 60.255 CHANGE OF LOCATION.

The location of any licensed business may be changed if 10 days notice thereof is given to the Director, and the change of location is approved by the Board.

#### 60.260 LICENSE RENEWAL.

At any time 30 days or more before the end of the calendar year, the Director may issue to a currently licensed business a license to continue to operate the same business during the succeeding year. Such renewal shall not be issued until all fees for the renewed license and identification certificates, if required of or requested by the licensed business, are paid.

#### 60.265 POSTING OF LICENSE.

A person conducting a licensed business shall keep the license posted in a prominent place on the premises at all times.

#### 60.270 LICENSE REVOCATION.

(1) When any licensee fails to comply with any provisions of this chapter or any other applicable County ordinance or State or Federal laws and regulations, the Board, upon advice from the Director, may revoke any license granted under this chapter in the manner provided for revocation of franchises under Section 70.0711.

(2) If a licensee is convicted for any violation of this chapter, or any other County ordinance or of any State or Federal law or regulation applicable to the licensed business, such conviction shall be sufficient ground for summary suspension or revocation of the license by order of the Board without notice and hearing.

#### 60.275 APPEALS.

Any person whose license is revoked may, within 30 days from the date of the order, appeal the decision to the Circuit Court. The burden of proof in the Circuit Court shall be upon the County. In the event of an appeal, the revocation shall be stayed until determination of the matter by the Circuit Court.

### **(General Provisions)**

#### 60.310 MINORS.

No person operating, maintaining, or engaging in an affected business having a fixed place of business within the County who knows, or in the exercise of reasonable care should know, that one or more of the following conditions exists, shall permit any minor to:

(1) Possess, consume, or be upon the premises while under the influence of alcoholic liquor, narcotics or illegal and/or dangerous drugs;

- (2) Resort to the premises for purposes of truancy; or
- (3) Engage in any game of chance upon the premises.

#### 60.320 NUISANCES.

No person operating, maintaining, or engaging in an affected business having a fixed place of business within the County shall:

- (1) Permit the unsightly (according to the Director) accumulation or spread of litter;
- (2) Permit or encourage excessive noise, smoke, or odor upon the premises to the annoyance of the public (as determined by the Director) or adjacent property owners; or
- (3) Fail or neglect to maintain order upon the premises.

#### 60.330 TRAFFIC HAZARDS.

No person operating, maintaining, or engaging in an affected business having a fixed place of business within the County with access to a public road shall so conduct the affected business in a manner which creates a continuing or repeated hazard to traffic upon the road.

#### 60.340 LAWS AND REGULATIONS.

Every licensed business shall comply with all applicable Federal and State laws and regulations in addition to regulations imposed on designated licensed businesses under the provisions of this chapter and other County ordinances.

#### 60.395 PENALTIES.

Any person who conducts or operates an affected business in violation of this chapter is punishable, upon conviction, as provided in ORS 203.065. A failure from day to day to comply with this chapter shall be a separate offense for each day.

#### 60.410 REGULATIONS FOR ENTERTAINMENT BUSINESSES.

- (1) The operator of any entertainment business shall designate at least one person who shall be responsible for maintaining order on the premises of the entertainment business. If required by the Director, the person designated shall meet with the approval of the Sheriff of Polk County.
- (2) During business hours, the entertainment business shall be open to inspection by the appropriate official for purposes of determining whether the entertainment business is in compliance with all laws, including fire safety regulations of the State and any rural fire protection district having the premises within its jurisdiction.
- (3) No gambling shall be allowed in connection with any entertainment business licensed under this ordinance.

## 60.420 REGULATIONS FOR SECOND HAND AND JUNK DEALERS.

(1) Every second hand dealer, junk dealer, and pawnbroker shall keep at his place of business, in duplicate, a record book in which shall be entered a dated, daily, true and complete account of all buying transactions. The information entered in the record book as to each item shall include:

- (a) Date and time received;
- (b) Form of identification presented;
- (c) Name, address, phone number, driver's license number, and social security number of each person involved in the transaction;
- (d) Complete description of each item involved in the transaction - including serial number or identification number, location, and wording of any engraving, specific setting;
- (e) The number of pounds of any material involved in the transaction that is customarily sold by weight;
- (f) The signature of each person involved in the transaction; and
- (g) Identification of the pawn ticket receipt, if any.

(2) The record book required by this chapter shall be maintained and protected by the dealer. Information shall be recorded in ink and must be legible.

(3) Regarding items purchased by a dealer at a garage or yard sale, it is necessary to record the following information for all items valued at \$100 or more: address where the item was purchased, general description of the item.

(4) Items purchased from an auction, estate sale, or mini storage warehouse sale are not subject to the provisions of this chapter.

(5) The record book shall, during all business hours and at such other times as reasonably may be required by any law enforcement officer, be open to inspection by any law enforcement officer. The record book shall be kept safe and dry for 12 full calendar months after receipt of any item. When any dealer subject to this chapter discontinues business for more than 6 consecutive months, said record book shall be delivered to the attention of the Director.

(6) Notwithstanding any other provision of this chapter, within 15 days following any recorded transaction, the duplicate copy of the record book shall be submitted to the Sheriff by delivery to the Sheriff's Office. The Sheriff's Office will issue a receipt to verify compliance.

(7) Items may not be sold or redeemed in violation of any contrary Order by the Sheriff. If in the course of a criminal investigation the Sheriff suspects that property received by a dealer was not lawfully obtained by the seller or borrower, the Sheriff may issue a written Order requiring, as a condition of license, that the dealer hold said property without alteration or change, and not allow sale or redemption for a period not to exceed 21 days.

(8) No merchandise of a second hand dealer, junk dealer, or pawnbroker shall be displayed outside any building in such a way as to create a nuisance or constitute solid waste.

#### 60.450 SALE LIMITATIONS.

No property that is subject to this Chapter (except items purchased at a garage sale) shall be sold for a period of fifteen calendar 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 fifteen-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 deemed necessary. Notwithstanding this requirement, the Sheriff may authorize the sale or transfer of an item of purchased regulated property before the expiration of this period in cases in which the dealer shows that extreme financial hardship will result from holding property for the fifteen-day period.

#### 60.510 DESIGNATION OF HEARINGS OFFICER.

(1) The Board may designate a Hearings Officer to receive recommendations from the Director and conduct any hearings under this chapter in lieu of a hearing before the Board. After hearing testimony and reviewing evidence, the Hearings Officer shall make findings and conclusions and submit a decision to the Board.

(2) A decision of the Hearings Officer under this section and chapter becomes final 15 days after issuance unless the Director or the Board files written objection.

### **(Penalties)**

#### 60.990 PENALTIES.

Violation of this chapter shall be punishable upon conviction by a fine of not more than \$500 for a non-continuing violation and a fine of not more than \$1,000 for a continuing offense. These penalties shall be in addition to any other remedies provided by law to Polk County. [Ord 95-8]