

**A BILL FOR AN ORDINANCE AMENDING)
LEBANON MUNICIPAL CODE)
CHAPTER 5.40, SECONDHAND BUYERS)
AND SELLERS)**

**Ordinance Bill No. 24
for 2002
Bill Number 2311**

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

Section 1. Chapter 5.40 of the Lebanon Municipal Code, Secondhand Buyers and Sellers, is amended to read as follows:

5.40.010 Definitions.

A. "Auto wrecker" means any person engaged in the business of storing, dismantling and wrecking used automobiles or parts thereof.

B. "Garage sale" or "yard sale" means the sale of used personal items from a place of residence on an irregular and temporary basis. Any person who conducts a garage sale or yard sale more than six days in any one calendar year is a secondhand dealer and is required to be licensed as provided in this chapter.

C. "Pawnbroker" means any person engaged in the business of loaning money for himself or for any other person upon personal property, personal security, pawns or pledges, or 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.

D. "Person" means natural persons, copartnerships, corporations and associations.

E. "Secondhand dealer" means any person engaged in the business of buying, selling or otherwise dealing in secondhand goods, either as a separate venture or incidental to another business; provided, however, that a person who received secondhand goods solely by donation to or through a nonprofit organization recognized under IRS 501c(3) shall not be considered a secondhand dealer. The term secondhand dealer does not include the following:

1. A person engaged in the business of buying and selling used automobiles;
2. Any dealer who sells, on an incidental basis, secondhand merchandise taken in trade, by that dealer, for new merchandise.
3. A person conducting a "garage sale" or "yard sale."

5.40.020 State provisions adopted.

Chapter 726 of Oregon Revised Statutes, otherwise known as the "Pawnbrokers Act," is incorporated by reference into this chapter, together with any amendments thereto, and any violation or failure to comply with such provisions shall be a violation of this chapter.

5.40.030 License--Required.

No person shall engage in any business as an auto wrecker, pawnbroker, secondhand dealer or assist in the conducting of any such business, without first obtaining a license as required by this chapter. No person shall be issued a license as a pawnbroker, unless satisfactory proof of a valid state pawnbroker license, issued pursuant to ORS Chapter 726, accompanies the application.

5.40.040 License--Application--Requirements.

An applicant for a license required by this chapter shall submit in writing to the City Administrator or his designate the following:

A. The name, description, date of birth, Social Security number, Oregon Driver's License Number, residence and a recent photograph of the applicant or, if the applicant is a corporation, firm, or other legal business entity, the names, descriptions, dates of birth, Social Security numbers, residences and recent photographs of the officers or directors thereof;

B. The particular location for which the license is desired;

C. The type of business to be licensed, whether secondhand dealer, pawnbroker or auto wrecker.

5.40.050 License--Fee.

There shall be a fee required for all those required to obtain a license under the provisions of this chapter except for nonprofit organizations. The fee amount shall be established by resolution of the Lebanon city council.

5.40.060 License--Application--Investigation--Grounds for denial or revocation.

The chief of police shall cause an investigation to be made to determine whether the applicant meets all the requirements of this chapter. The license may be denied or revoked if the chief of police determines that:

A. The applicant has been convicted of any felony or of any other crime involving fraud or theft;

B. The applicant has presented any false or misleading information in making application for the license.

C. The Chief of Police or City Administrator is in receipt of two or more written and signed complaints from individuals who recognized stolen property in the possession of the licensee.

5.40.070 License--Nontransferability.

No license issued as provided in this chapter shall be transferred or assigned.

5.40.080 License--Display.

It shall be the duty of every person to whom a license is issued, as provided in this chapter, to display such license in a conspicuous manner in the business to which the license relates.

5.40.090 Records--Required--Inspection.

Every secondhand store, junk dealer, pawnbroker and auto wrecker shall keep a permanent, bound book in which shall be kept an itemized statement and account of all personal property purchased, pawned or taken as pledge by the store and the date of such purchase, following which shall appear the signature of the vendor or person from whom such personal property was received, sold or given away and a brief description of such person or persons and property received or sold. Such records shall, at all times, be open to inspection by the police officers of the city, as well as the county, state and federal officers. Such records must be maintained for at least three years prior to their destruction.

5.40.100 Minors and intoxicated persons-- Transactions with prohibited.

No person licensed under this chapter or his agent shall purchase or receive any item from a minor without first having written permission from his parent or legal guardian, nor shall he receive or acquire any items from an intoxicated person.

5.40.110 Reports required.

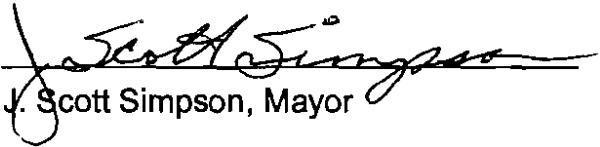
The chief of police may cause written reports to be made to the police department each day by persons licensed under this chapter. These forms shall be furnished by the chief of police and shall contain all information so requested before any purchase or sale is consummated by any licensee or his agent under this chapter.

5.40.120 Violation--Penalty.

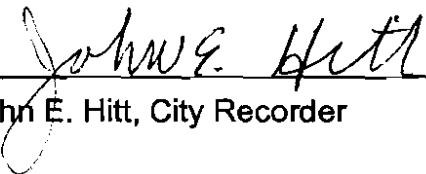
A violation of this chapter shall be punished as provided by Sections 161.545 through 161.685 of the Oregon Revised Statutes. In addition thereto and as an abatement to operating without a license, failure to obtain a license required under this chapter shall be punishable in an amount of the licensee fee for each day of operation. Said fee shall be a lien on the real and personal property of the business owner and/or owner of the facility or building where the unlicensed business is conducted.

Section 2. The provisions of this ordinance shall become effective thirty days after its passage by the City Council.

Passed by the City Council by a vote of 5 yes and 0 no, on this 12 day of June, 2002.


J. Scott Simpson, Mayor

Attest:


John E. Hitt, City Recorder