

MOTION BY COUNCILMEMBER FESTERSON

I hereby move that Item No. 4472, on the May 22, 2018 Agenda of the City Council, be amended in the whole by deleting the Ordinance in its entirety and substituting in lieu thereof the attached Ordinance.

APPROVED AS TO FORM:

Michelle Peters 5/10/18  
DEPUTY CITY ATTORNEY DATE

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ORDINANCE NO. 41472

1 AN ORDINANCE to amend Sections 30-21, 30-22, 30-23, 30-25, 30-26; 30-31; 30-32; 30-34; to add  
2 new Section 30-36; of the Omaha Municipal Code; to amend the system whereby the Police  
3 Department can track stolen goods and to regulate second-hand dealers in order to reduce  
4 theft of certain items; and to provide the effective date thereof.

5 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

6 Section 1. That Sec. 30-21 of the Omaha Municipal Code is hereby amended to read as  
7 follows:

8 **Sec. 30-21. – Definitions.**

9 For the purpose of this article any person who shall engage in the business of buying, selling  
10 or dealing in ~~secondhand clothing, jewelry, goods, furniture, wares or merchandise~~ is hereby  
11 declared and defined to be a dealer in secondhand goods.

12  
13 (a) "Secondhand goods dealer" shall mean any person who regularly operates, keeps or  
14 manages any secondhand goods store and either:

15  
16 (1) Purchases regulated property within the City of Omaha; or

17  
18 (2) Offers for sale regulated property within the City of Omaha.

19  
20 (b) "Secondhand goods store" shall mean any store, room, building, or enclosure where  
21 secondhand articles or regulated property are regularly bought or sold for profit or  
22 pleasure. For purposes of this article, electronic repair shops are included in this definition.

23  
24 (c) "Regulated property" shall mean any of the following property that is used second  
25 hand:

26 (1) Any precious metal or gem that is valued for its character, rarity, beauty, or  
27 quality, including, but not limited to, gold, silver, platinum, diamonds, rubies, emeralds,  
28 sapphires, pearls and any other such metals or gems, stones, or imitation thereof whether  
29 as a separate item or in combination as a piece of jewelry;

30 (2) Jewelry;

31 (3) Watches;

32 (4) Items made of or containing sterling silver;

33 (5) Firearms;

34 (6) Golf clubs;

35 (7) Bicycles;

36 (8) Electronics;

37 (9) Video game systems, video game equipment and video games;

38 (10) Musical instruments; and

39 (11) Coins.

40  
41 (d) "Regulated property" shall not include items purchased or handled by the following  
42 establishments:

- 1                   (1) Charitable organizations that accept donations from individuals that are later
- 2 sold to benefit the charitable organization;
- 3                   (2) Antique dealers or auction houses, including on-line vendors;
- 4                   (3) Places or residence;
- 5                   (4) Used furniture stores;
- 6                   (5) Used clothing stores;
- 7                   (6) Used book stores;
- 8                   (7) Flea markets;
- 9                   (8) Traveling venues; and
- 10                  (9) Vehicle Service Centers.

11  
12                  (e) "Regulated property" shall not include items traded in for equal or greater value or for

13 store credit.

14  
15  
16                  Section 2. That Sec. 30-22 of the Omaha Municipal Code is hereby amended to read as

17 follows:

18                  **Sec. 30-22. - Reserved. Permit required.**

19                  Every person desiring to engage in the business of a dealer in secondhand goods shall

20 obtain a permit before engaging in such business.

21                  Section 3. That Sec. 30-23 of the Omaha Municipal Code is hereby amended to read as

22 follows:

23                  **Sec. 30-23 ~~Permit required.~~ Electronic reporting requirement.**

24                  ~~Every person desiring to engage in the business of a dealer in secondhand goods shall~~

25 ~~obtain a permit before engaging in such business.~~

26                  Any person desiring a permit to operate as a secondhand dealer shall make application

27 to the permits and inspections division. Such application shall contain:

- 28                   (a) The full name and address of the applicant;
- 29                   (b) The street address and legal description of the property; and
- 30                   (c) The business e-mail address of the applicant.

31                  Section 4. That Sec. 30-25 of the Omaha Municipal Code is hereby amended to read as

32 follows:

33                  **Sec. 30-25. - Issuance of permit.**

34                  The permits and inspections division may issue an initial ~~shall authorize the issuance of a~~

35 permit to engage in the business of dealing in secondhand goods ~~after the applicant has~~

36 provided all application materials and upon payment of the required permit fee by the

37 applicant therefor.

38                  Section 5. That Sec. 30-26 of the Omaha Municipal Code is hereby amended to read as

39 follows:

1           **Sec. 30-26. - Business location to be stated in permit. Reserved.**

2           Every permit to engage in the business of dealing in secondhand goods shall state the  
3           place where such business is to be carried on.

4           Section 6. That Section 30-31 of the Omaha Municipal Code is hereby amended to read as  
5           follows:

6           **Sec. 30-31. Record of purchases – Required.**

7  
8           (a) ~~Any~~ persons who shall engage in business as dealers in secondhand goods shall  
9           keep a book, ledger, computer, or other record of all purchases by that secondhand dealer of any  
10          regulated property. Such record ~~in which~~ shall be legibly written or typed in ink, at the time any  
11          purchase is made, in the English language, and shall include:

12  
13           ~~(a-1)~~ An accurate, detailed account or description of the regulated property goods,  
14          articles or things purchased including serial number, if available;

15  
16           ~~(b-2)~~ The amount of money paid thereon or therefor;

17  
18           ~~(c-3)~~ The date and time of ~~the same was~~ received purchased; and

19  
20           ~~(d-4)~~ The name, address, date of birth, and driver's license number or other  
21          identification of public record residence and description of the person selling the  
22          regulated property same.

23  
24           (5) The name of the employee conducting the transaction.

25  
26          ~~(b)~~ The records required in this section, having all of the required information, shall be  
27          created and delivered to the chief of police every day before the hour of 12:00 noon  
28          in a form required by this article, including a list of all regulated property received,  
29          deposited or purchased during the previous day, together with the time received or  
30          purchased, and a description of the person or person by whom left, or from who the  
31          same were purchased; provided the report herein required shall not apply to  
32          Sundays, but the report of Monday of each week shall cover the business  
33          transactions of the Saturday previous, and also shall take place on said last-  
34          mentioned day; provided that no person shall be required to furnish such description  
35          of any property purchased from manufacturers or wholesale dealers having an  
36          established place of business or of goods purchased at open sale from any bankrupt  
37          stock or from any other person doing business and having an established place of  
38          business, but such goods must be accompanied by a bill of sale or other evidence of  
39          open and legitimate purchase, and must be shown to the chief of police, or some  
40          person under his direction, when demanded.

41  
42          (c) In the event the city enters into a contract for an electronic reporting system of  
43          transactions for secondhand dealers, the records required by this section having all  
44          of the information required by this article shall be created and delivered to the chief  
45          of police before the close of business that day. In the event the electronic reporting  
46          system is unavailable to record a transaction for any reason, the secondhand dealer  
47          is required to make a complete written report of the transaction which written report  
48          shall be entered into the electronic system as soon as practicable.

1 Section 7. That Sec. 30-32 of the Omaha Municipal Code is hereby amended to read as  
2 follows:

3 **Sec. 30-32. Same—Copies to police. Required use of electronic reporting system.**

4  
5 (a) ~~Except as hereinafter provided, it shall be the duty of each dealer in~~  
6 ~~secondhand goods to make an accurate and complete copy of the record of purchases~~  
7 ~~required by this article of all goods, articles and things purchased by him, and to deliver such~~  
8 ~~copy to the chief of police before 12:00 noon of the following business day.~~

9 ~~(b) The daily report required by this section shall not be required for:~~

10 ~~(1) The delivery or sale of goods accompanied with a bill of sale or other~~  
11 ~~evidence of open and legitimate purchase, which evidence of purchase shall be~~  
12 ~~shown to the chief of police, his authorized agent, the chief of police or any~~  
13 ~~member of the police department upon demand.~~

14 ~~(2) The business handled by loan brokers which is recorded as mortgages in the~~  
15 ~~county clerk's office.~~

16  
17 In the event the city enters into a contract for an electronic reporting system of transactions  
18 for secondhand dealers, it shall be the exclusive means by which such transactions are reported to  
19 the chief of police. Every secondhand dealer shall operate and maintain a computer system with  
20 internet access and photographic capability sufficient for the electronic reporting requirements  
21 described in Sec. 30-31 and Sec. 30-36. Any failure or malfunction of such equipment on the part of  
22 the licensee shall not exempt the licensee from the recording and reporting requirements of this  
23 article. The licensee shall immediately notify the police department of any such failure or malfunction  
24 and shall have such resolved as soon as practicable.

25  
26 Section 7. That Sec. 30-34 of the Omaha Municipal Code is hereby amended to read as  
27 follows:

28 **Sec. 30-34. - Retention of goods.**

29 No personal property received on deposit or purchase by any dealer in secondhand  
30 goods shall be sold or permitted to be redeemed from the place of business of such person  
31 for the space of five fourteen days after the copy of the record of purchase thereof shall have  
32 been delivered to the chief of police as required by this article.

33 Section 9. That a new Sec. 30-36 of the Omaha Municipal Code is hereby added to read as  
34 follows:

35 **Sec. 30-36. Collection of certain information.**

36  
37 In addition to the requirements of sec. 30-23, at the time of purchase, the secondhand dealer  
38 shall use the required electronic reporting system to collect the following:

- 39  
40 (a) A digital photograph of the purchased item;  
41 (b) A digital photograph of the seller;  
42 (c) A digital signature of the seller;

- 1           (d)    A digital scan of the seller's right index finger; if the index finger is missing, the
- 2                   fingerprint shall be taken from the left index finger. The print shall be clear and
- 3                   legible;
- 4           (e)    A photographic or scanned image of the I.D. card of the seller, sufficiently clear to
- 5                   allow the information of the I.D. to be read.

7           Section 10. That a new Sec. 30-37 of the Omaha Municipal Code is hereby added to read  
8 as follows:

9           **Sec. 30-37. Penalty.**

10           Any person who fails to keep the record or fails to make required entries thereon, or  
11           intentionally or knowingly makes any false or unintelligible entry, or any entry which he/she has  
12           reason to believe is untrue, or fails to make the inquiries necessary to enable him/her to make such  
13           entries or any of them, or who fails to procure the license or who fails to procure his/her license or  
14           records when requested by an officer having authority to examine them, or who destroys or  
15           negligently permits such records to be destroyed or lost shall be guilty of a misdemeanor and upon  
16           conviction shall be punished as provided in Omaha Municipal Code sections 1-10.

17           Section 11. That Sec. 30-118 of the Omaha Municipal Code is hereby amended to read as  
18 follows:  
19

20           That this Ordinance shall be in full force and take effect January 1, 2019.

21           INTRODUCED BY COUNCILMEMBER

22           *Peter Peterson*

APPROVED BY:

*Jim Stovall* 5/24/18  
MAYOR OF THE CITY OF OMAHA   DATE

PASSED MAY 22 2018 4-3

ATTEST:

*Kimberly Pulliam* 5/24/18  
**DEPUTY** CITY CLERK OF THE CITY OF OMAHA   DATE

APPROVED AS TO FORM:

*Michelle Peters* 5/10/18  
DEPUTY CITY ATTORNEY   DATE