

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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CITY CLERK
OMAHA, NEBRASKA

ORDINANCE NO. 41472

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

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

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

Sec. 30-21. – Definitions.

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

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

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

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

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

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

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

(2) Jewelry;

(3) Watches;

(4) Items made of or containing sterling silver;

(5) Firearms;

(6) Golf clubs;

(7) Bicycles;

(8) Electronics;

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

(10) Musical instruments; and

(11) Coins.

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

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(1) Charitable organizations that accept donations from individuals that are later sold to benefit the charitable organization;

(2) Antique dealers or auction houses, including on-line vendors;

(3) Places or residence;

(4) Used furniture stores;

(5) Used clothing stores;

(6) Used book stores;

(7) Flea markets;

(8) Traveling venues; and

(9) Vehicle Service Centers.

(e) "Regulated property" shall not include items traded in for equal or greater value or for store credit.

Section 2. That Sec. 30-22 of the Omaha Municipal Code is hereby amended to read as follows:

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

Every person desiring to engage in the business of a dealer in secondhand goods shall obtain a permit before engaging in such business.

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

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

~~Every person desiring to engage in the business of a dealer in secondhand goods shall obtain a permit before engaging in such business.~~

Any person desiring a permit to operate as a secondhand dealer shall make application to the permits and inspections division. Such application shall contain:

(a) The full name and address of the applicant;

(b) The street address and legal description of the property; and

(c) The business e-mail address of the applicant.

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

Sec. 30-25. - Issuance of permit.

The permits and inspections division may issue an initial ~~shall authorize the issuance of a~~ permit to engage in the business of dealing in secondhand goods after the applicant has provided all application materials and upon payment of the required permit fee by the applicant therefor.

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

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

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

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

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

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

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

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

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

Sec. 30-34. - Retention of goods.

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

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

Sec. 30-36. Collection of certain information.

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

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

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

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

Sec. 30-37. Penalty.

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

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

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

INTRODUCED BY COUNCILMEMBER

Pete Peterson

APPROVED BY:

Tom Stuchlik 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