TIGARD MUNICIPAL CODE

Chapter 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS.*

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*** Prior ordinance history**: Ord. Nos. 02-05, 83-26.

7.70.010 Purpose.

The purpose of adopting this Chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. Despite the best efforts of legitimate secondhand dealer businesses, this risk is present 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. These regulations are necessary and the need for the regulations outweighs the regulatory effect that may result from their adoption. (Ord. 09-07 § 1).

7.70.020 Definitions.

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

1. "Acceptable identification" means either a current driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state - or local government-issued identification cards, one of which has a photograph of the seller. Transactions which are accompanied by a thumbprint require only one current United States, state, or local government-issued identification card which has a photograph of the seller.

2. "Acquire" means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales; consignments; memoranda between a Dealer and a private party seller; leases; trade-ins; loans; and abandonments. "Acquire" also means to take or transfer any interest in precious metals, in a voluntary transaction, for the purpose of refinement. Any acquisition of regulated property by a Dealer will be presumed to be an acquisition on behalf of the Secondhand Dealer business. Notwithstanding the foregoing, "acquire" does not include:

a. Any loans made in compliance with state laws by persons licensed as

pawnbrokers by the State of Oregon; or

b. Memoranda between a Secondhand Dealer and a person engaged in the business of selling regulated property.

3. "Business Location" means any physical location where the Dealer conducts business.

4. "Chief of Police" means the Chief of the Tigard Police Department or his/her designee.

5. "Criminal arrests or a conviction" refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Tigard, 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 Tigard, as specified herein, will 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 City of Tigard ordinance provisions.

6. "Dealer" or "Secondhand Dealer"

a. Means any:

(1) Sole Proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:

(i) Acquires regulated property at or from business locations within the City of Tigard, or on behalf of such a business regardless of where the acquisition occurs, or

(ii) Offers for sale regulated property.

(2) Pawnbroker licensed under the Oregon Pawnbroker's Act, ORS 726.020, 726.990.

b. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an "Occasional Secondhand Dealer." The term "Dealer" in this Chapter and all regulations herein refer to Secondhand Dealers, Occasional Secondhand Dealers and Pawnbrokers unless specifically stated otherwise.

c. "Dealer" does not include:

(1) A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(C)3 organizations; or

(2) A person whose only business transactions with regulated property in the City of Tigard consist of the sale of personal property acquired for household or other personal use; or

(3) A person whose only business transactions with regulated property in the City of Tigard consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

7. "Held Property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a prescribed period of time as more specifically enumerated in Section 7.70.090.

8. "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.

9. "Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.

10. "New" means anything conspicuously not used.

11. "Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 7.70 to have a Secondhand Dealer Permit. As a Dealer, all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this Chapter unless otherwise stated.

12. "Person" means a natural person.

13. "Principal" means any person who will be directly engaged or employed in the management or operation of the Secondhand Dealer business, including any owners and any shareholders with a five percent or greater interest in the company.

14. "Receive means to take property into the inventory, possession, or control of a Dealer.

15. A "Registered Business" must be:

a. Registered with the Secretary of State Corporate Division or its equivalent in the state where the business is located; and

b. In compliance with the City of Tigard business license registration requirements.

16. "Regulated property" means property of a type that has been determined by the Chief of Police to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. In order to enhance the Police Department's ability to reduce property crimes and recover stolen goods, a list of regulated property may be~~is~~ included in the Administrative Policies and Procedures~~, Section I~~, and shall be updated~~ by June 30th of each year~~ by the Chief of Police. A copy will be kept on file in the Police Department.

~~16~~17. "Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.

~~17~~18. "Seller" means any person who:

a. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or

b. Donates or abandons items of regulated property.

~~18~~19. "Trade Show" means an event open to the public, held in a venue other than a Dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.

Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this Chapter.

~~19~~20. "Transaction Report" means the record of the information required by Section 7.70.080, transmitted to the Tigard Police Department by the means required in Section 7.70.080.

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~~20~~21. "Transient Merchant" means any person:

a. Engaged in the business of purchasing or acquiring regulated property from business locations within the City of Tigard;

b. Engaged as an itinerant or temporary business under the provisions of the Tigard Municipal Code, Chapter 5.04; and

c. Engaged in the business of purchasing such regulated property from any person not representing a business which is required to be issued a business license or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the Dealer's place of business.

~~21~~22. "Used" means anything that has been put into action or service.

~~22~~23. "PPDS" (Portland Police Data System) means the computerized record keeping system the Tigard Police Department utilizes to manage data, including, but not limited to, Secondhand Dealers' transaction reports, and includes the RegJIN record keeping system. (Ord. 09-07 § 1).

24. "RAPID" (Northwest Regional Automated Information Database) means the computerized, web-based record keeping system the Tigard Police Department utilizes to manage data pertaining to Secondhand Dealers' transaction reports.

7.70.030 ~~Special License~~ Secondhand Dealer License Required.

1. No person or business shall engage in, conduct or carry on a secondhand dealer business in the City of Tigard without a valid Secondhand Dealer ~~Special~~ License issued by the City of Tigard. A ~~special license~~ Secondhand Dealer License shall be required in addition to a business license or special certificate required by Chapter 5.04 of the Tigard Municipal Code, or any other City license or permit.

2. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period are categorized as an "Occasional Secondhand Dealer." Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an Occasional Secondhand Dealer shall apply for and obtain a ~~Regular~~ Secondhand Dealer ~~Special~~ License and comply with all the regulations of a secondhand dealer before acquiring any more items of regulated property.

3. Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City of Tigard will be presumed to be operating as a Dealer subject to the terms of Chapter 7.70.

4. The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales" is exempt from these regulations if all of the following are present:

a. No sale exceeds a period of 72 consecutive hours; and

b. No more than four sales are held at the same location in any 12-month period. (Ord. 09-07 § 1).

7.70.035 Minimum Standards.

1. No person or business may operate as a Dealer within the City of Tigard unless the person or business maintains a fixed physical business location.

2. Dealers shall comply with all applicable federal, state and local regulations. (Ord. 09-07 § 1).

7.70.040 Application for ~~Special License~~ Secondhand Dealer License.

1. An applicant for a ~~Special License~~ Secondhand Dealer License shall complete and submit an application (including required personal history forms) that sets forth the following information:

a. The name, address, telephone number, birth date and principle occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;

b. 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;

c. The Web address of any and all Web pages used to acquire or offer for sale regulated property on behalf of the Dealer, and any and all Internet auction account names used to acquire or offer for sale regulated property on behalf of the Dealer;

d. Written proof that all principals are at least 18 years of age;

e. Each principal's business occupation or employment for the three years immediately preceding the date of application;

f. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 7.70;

g. A brief summary of the applicant's business history in any jurisdiction including:

(1) The business license or permit history of the applicant, and

(2) Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefore, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation;

h. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

(1) If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principle 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.

(2) If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;

i. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;

j. All arrests or convictions of each

principal enumerated in Subsection 1 of this Section;

k. Upon request, principals and employees shall submit to the Tigard Police Department the following information: fingerprints, passport-size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Tigard Police Department;

l. Any other information that the Chief of Police may reasonably feel is necessary to accomplish the goals of this Chapter.

2. The Secondhand Dealer shall notify the Chief of Police of any changes in the information required in Subsection 1 of this Section within 10 business days.

3. New employees of Dealers shall complete and submit the personal history form as required in Subsection 1 of this Section. Employees may not acquire regulated property until all required information has been reviewed and approved by the Tigard Police Department. The criteria used to review a new employee will be the same as those used in the review of an initial application in Chapter 7.70.

4. The personal and business information contained in the application forms required pursuant to Section 7.70.040 are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq. (Ord. 09-07 § 1).

7.70.045 Surety Bond Required.

No person shall engage in business as a transient merchant until such merchant has filed with the City Recorder of the City a $10,000 ~~dollar~~ bond, with a surety company licensed to do business in the State of Oregon as surety, for the benefit of any person damaged by false, fraudulent, or misleading representations of the transient merchant in the conduct of his/her business. (Ord. 09-07 § 1).

7.70.050 Issuance and Renewal of ~~Special Permit~~Secondhand Dealer License.

1. Upon the filing of an application for a ~~Secondhand Dealer Special License~~ Secondhand Dealer License and payment of the required fee, the Chief of Police shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 7.70.040. The Chief of Police shall issue the ~~permit~~ license within 90 days of receiving the application if no cause for denial exists.

2. Except as provided in Section 7.70.050 the Chief of Police shall deny an application for a Secondhand Dealer Special License if any of the following apply:

a. The applicant, or 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 7.70, and

(1) The license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 7.70, or

(2) The business has been found to constitute a public nuisance and abatement has been ordered;

b. Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Chapter 7.70. The offenses include:

(1) Any felony.

(2) Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses;

c. The Chief of Police finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 7.70.120;

d. The Chief of Police finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 7.70;

e. Any statement in the application is false or any required information is withheld; or

f. The Chief of Police finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed 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 7.70 or any laws or statutes equivalent to the provisions of Chapter 7.70, and the business has violated applicable state, federal or local requirements, including permitting requirements.

3. Notwithstanding Section 7.70.050, the Chief of Police may grant a permit after consulting with the City Council despite the presence of one or more of the enumerated factors if the applicant establishes to the Chief of Police's reasonable satisfaction that:

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

b. The behavior evidenced by such factor is remote in time; or

c. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 7.70.

4. ~~Secondhand Dealer Special Licenses~~ Secondhand Dealer Licenses are valid for one year and expire at 12:00 a.m. on January 15th of each year. The ~~permits~~ licenses are nontransferable and are valid only for a single business location. When the business location is to be changed, the ~~permit~~ license holder shall provide the address of the new location in writing to the Chief of Police for approval at least 14 days prior to the change.

5. ~~Secondhand Dealer Special Licenses~~ Secondhand Dealer Licenses must be displayed at the business location in a manner readily visible to patrons.

6. Upon denial of an application for a ~~Secondhand Dealers Special License~~ Secondhand Dealer License, the Chief of Police shall give the applicant written notice of the denial.

a. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.

b. Mailing of the notice will be prima facie evidence of receipt of the notice.

c. The denial will be effective the date the notice is sent.

7. Denial of a ~~permit~~ license may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance

with Section 7.70.150. (Ord. 09-07 § 1).

7.70.060 ~~Special License~~ Secondhand Dealer License Fees.

Every Dealer shall complete and submit all required forms to the Chief of Police and pay a non-refundable fee as set forth by the City of Tigard Master Fees and Charges Schedule. (Ord. 09-07 § 1).

7.70.070 Subsequent Locations.

1. Dealers must file an application for a ~~permit~~ license for a subsequent or additional business location with the Tigard Police Department and pay a non-refundable fee as set forth in the City of Tigard Master Fees and Charges Schedule; provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 7.70.040.

2. ~~Secondhand Dealer Special Licenses~~ Secondhand Dealer Licenses issued for subsequent or additional business locations will be subject to all the requirements of this Chapter, and the term of the ~~permit~~ license issued for a subsequent or additional location will expire on the same date as the initial permit. (Ord. 09-07 § 1).

7.70.080 Reporting of Secondhand Dealer Transactions.

1. Dealers shall provide to the Tigard Police Department all required information as set forth by the Tigard Police Department for each regulated property transaction (not including sales). The Chief of Police may designate the format for the transfer of this information and may direct that it be communicated to the Criminal Investigations Unit by means of mail, the Internet, or other computer media.

a. In any such case that the Chief directs that the information be transmitted via computer media, the Chief may also direct the system that will be utilized in order to ensure conformity among all Secondhand Dealers. All secondhand dealers shall enter their transactions into RAPID, Tigard's designated reporting system. ~~Occasional secondhand dealers may request an exemption from using RAPID, allowing them to, as an alternative, submit their transactions on transaction report (SDR) forms. The request must be made in writing to the Chief of Police.~~

b. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the Chief of Police alters the required format, Dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a Dealer must submit a written request for additional time to the Chief of Police before the deadline.

c. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.

2. The following apply to Occasional Secondhand Dealers:

a. Occasional secondhand dealers may request an exemption from using RAPID. The exemption will~~,~~ allow Occasional Secondhand Dealers~~ing them~~ to, as an alternative, submit their transactions on a transaction report ~~(SDR)~~ form created by the Chief of Polices. The request for this exemption must be made in writing to the Chief of Police.

b. The Tigard Police Department will provide all Occasional Secondhand Dealers with transaction report forms at cost until 60 days after such time that the Chief of Police directs a change

in the reporting method. The Chief of Police may specify the format of the transaction report form. The Chief of Police may require that the transaction report form include any information relating to the regulations of this Chapter. Dealers may utilize their own forms, in lieu of those supplied by the Tigard Police Department, if the Chief of Police has approved such forms. The Declaration of Proof of Ownership will be considered to be included in references in this Chapter to the transaction report form, as appropriate. (Ord. 09-07 § 1).

7.70.090 Regulated Property Sale Limitations.

1. Regulated property is subject to the following limitations:

a. Holding Period. Regulated property acquired by any Secondhand Dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of Section 7.70.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of Section 7.70.090 remain in effect.

b. The following sections apply to the hold period:

(1) The hold period for items may be reduced from 30 days to 20 days if the item either displays a complete legible serial number; or is an item of jewelry; or is precious metal scrap. The Dealer must:

i Report the acquisition into RAPID on the same day the acquisition occurs; ~~and~~

ii Include a description in the RAPID entry of the degree of detail for the type of item as required in the Administrative Policies and Procedures and Tigard Municipal Code 7.70; ~~and~~

iii Include a digital photograph of sufficient size and focus to identify the item and distinguish it from similar items and that clearly shows any legible serial number on the item in the RAPID entry; and

iv Comply with all remaining requirements in the Administrative Policies and Procedures.

(2) A Dealer may be required to reinstate a 30-day hold period if an examination of RAPID entries reveals a pattern of insufficient item descriptions or insufficient photographs.

c~~b~~. Requirements of Held Property. All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of, and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Tigard Police Department. Held property must be kept at the business location where it was acquired (including hotels or temporary event locations) during this holding period so that it can be inspected during normal business hours (as provided in Section 7.70.110). Held property, other than property on Police Hold, may be held in a place within public view, as long as the other requirements of Section 7.70.090, Subsection 1.b,

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are met.

de. Held property requirements do not apply if:

(1) The property is received from a Secondhand Dealer regulated by the City of Tigard who has already satisfied the holding requirements of this Chapter and the Dealer records the original transaction report number on the transaction report completed for the new transaction; or

(2) If a customer, who originally purchased property from a Secondhand Dealer, returns it to that Dealer with the original receipt.

2. Notwithstanding Section 7.70.090, the Chief of Police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period and/or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in Section 7.70.120.

3. Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any Dealer that a specifically described item of regulated property must be held in a separate Police Hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of Section 7.70.090, Subsection 1.b, above. The hold may be extended an additional 30 days upon notice provided to the Dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The Dealer shall comply with the hold notice and notify the Tigard Police Department Criminal Investigations Unit of the hold notice no later than five calendar days from the day the notice was received, either by telephone, fax, e-mail or in person. A Dealer must notify the Criminal Investigations Unit of his/her intent to dispose of any item of regulated property under Police Hold at least 10 days prior to doing so.

a. A Police Hold area must meet the following criteria:

(1) Located out of public view and access, and

(2) Marked "Police Hold," and

(3) Contain only items that have been put on Police Hold.

b. Dealers may maintain up to three Police Hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on Police Hold.

c. If it is not possible or practical to move an item to or store an item in the Police Hold area, a Dealer may submit a written request to the Chief of Police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on Police Hold and kept from public view and access.

4. Upon probable cause that an item of property is the subject of a crime, the Chief of Police may take physical custody of the item or provide written notice to any Dealer to hold such property for a period of time as determined by the Chief of Police or any Tigard police officer, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in Section 7.70.090, Subsection 1.b, and will be maintained in the Police Hold area unless seized or released by the Ppolice. Seizure of property will be carried out in accordance with Oregon Revised Statutes.

5. Items held or seized under TMC 7.70.090, Section 4, may not be released to

anyone other than the Dealer unless the property is released to:

a. Another law enforcement agency that has provided documentation to the satisfaction of the Chief of Police of the stolen status of the property; or

b. A person who reported the property as stolen when all of the following are present~~; and~~:

(1) A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and

(2) A notice has been delivered to the Dealer holding the property or from whom the property was seized.

(i) The notice required by this subsection will state that the property is being released to the person who has filed the stolen property report.

(ii) The notice required by this subsection will be sent electronically with a request for acknowledgement, or delivered in person to the Dealer at the email or physical address shown on the Dealer's permit application or most recent permit renewal application, and to the pawner/seller at the address shown in the transaction report required by TMC 7.70. The Chief of Police may release property to the owner after the notice required by this subsection has been delivered; proof of receipt of the notice is not required.

(iii) The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.

6~~5~~. If a Dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the Dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The Dealer must notify the Tigard Police Department by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the Tigard Police Department. The held property must conform to all the requirements found in Section 7.70.090, Subsection 1.b.

7~~6~~. If a Dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Tigard Police Department by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.

8~~7~~. If a peace officer employed by an agency other than Tigard seizes any property from a Dealer, the Dealer must notify the Tigard Police Department of the seizure no later than five calendar days from the day the seizure occurs. The Dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Tigard Police Department may be given by telephone, fax, email, or in person. (Ord. 09-07 § 1).

7.70.100 Tagging Regulated Property for Identification.

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that item or be referenced to the transaction report required by the Tigard Police Department. After the holding period has expired, the transaction number must remain identifiable on the property

until the sale of the property.

1. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.

2. After the applicable holding period has expired, items that are remanufactured need not remain tagged. (Ord. 09-07 § 1).

7.70.110 Inspection of Property and Records.

Upon presentation of official identification, a Dealer shall allow any representative of the Tigard Police Department to enter the business location to ensure compliance with the provisions of Chapter 7.70. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this Chapter. Except by mutual agreement with the Dealer or by court order, any inspection under this Section may occur only during the Dealer's normal business hours. (Ord. 09-07 § 1).

7.70.120 Prohibited Acts.

1. It is unlawful for any person regulated by Chapter 7.70:

a. To receive any property from any person:

(1) Known to the principal, employee or Dealer to be prohibited from selling by a court order,

(2) Under the age of 18 years unless the person's parent or guardian completes the applicable information on the Declaration of Proof of Ownership,

(3) About whom the principal, employee or Dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his/her own behalf or as the agent of another who meets the above criteria;

b. To receive property prohibited by this Chapter, including:

(1) Medications,

(2) Gift cards, in-store credit cards, or activated phone cards,

(3) Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible;

c. To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen. Determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a Dealer has violated this subsection.

2. Any violation of Chapter 7.70 is punishable, upon conviction, by a fine of not more than $500.00 and a jail sentence of up to six months. (Ord. 09-07 § 1).

7.70.130 Civil Penalties.

1. The Chief of Police may assess civil penalties in an amount up to $500.00 for each violation of Chapter 7.70.

2. Procedure.

a. The Chief of Police having made a determination to seek civil penalties as provided by this Section, shall give the Dealer written

notice of the determination.

b. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested or by personal service by any sworn member of the Tigard Police Department.

c. Mailing of the notice will be prima facie evidence of receipt of the notice.

d. The civil penalty will be due ~~10~~ 30 days from the date of the notice unless such civil penalty is appealed in accordance with Section 7.70.150. (Ord. 09-07 § 1).

7.70.140 Revocation or Suspension of ~~Permit~~ Secondhand Dealer License.

1. Along with the other regulatory enforcement authority granted under this Chapter, the Chief of Police may, after consulting with the City Council, revoke or suspend any ~~permit~~ license issued pursuant to this Chapter under the following conditions:

a. For any cause that would be grounds for denial of a permit; ~~or~~

b. Upon finding that any violation of the provisions of this Chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the Dealer or any principal or employee engaged or employed in the management or operation of the business location; ~~or~~

c. A lawful inspection has been refused; ~~or~~

d. If payment of civil penalties has not been received by the City of Tigard within 10 business days after the penalty becomes final; or

e. If any statement contained in the application for the permit is false.

2. The Chief of Police, upon revocation or suspension of any permit issued pursuant to this Chapter, shall give the Dealer written notice of the revocation or suspension.

a. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.

b. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.

3. Revocation will be effective and final 10 days after the giving of notice unless the revocation is appealed in accordance with Section 7.70.150

4. Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days. (Ord. 09-07 § 1).

7.70.150 Appeals.

1. Any Dealer or person whose initial application or renewal application for a ~~Special License~~ Secondhand Dealer License has been denied, or whose license has been revoked or suspended, or who has been directed to pay a civil penalty by the Chief of Police, may appeal the action of the Chief of Police to the Civil Infractions Hearing Officer in accordance with Chapter 1.17 of the Tigard Municipal Code.

2. The filing of a notice of appeal of revocation or suspension of a ~~permit~~license, or of a civil penalty imposed by the Chief of Police

under this Chapter, will stay the effective date of the action until the Civil Infractions Hearing Officer has issued an opinion. (Ord. 09-07 § 1).

7.70.155 Administrative Policies and Procedures.

1. The City Council shall grant the Chief of Police the authority to may, by rule, implement the requirements and specifications of this chapter change, modify or adjust the Definition of Regulated Property list (Administrative Policies and Procedures, Section I), Completion of Secondhand Dealers Report (Administrative Policies and Procedures, Section II), or other sections specified in this Chapter. Administrative Policies and Procedures stemming from this Chapter, Sections I and II, will be maintained by the Tigard Police Department and copies will be provided to all Dealers.

2. The Chief of Police shall make available and publish a new Regulated Property List (Administrative Policies and Procedures, Section I) and Completion of Secondhand Dealers Report (Administrative Policies and Procedures, Section II) by June 30th of each year. If no modifications are made to Administrative Policies and Procedures, Sections I and II, from the previous year, the previous year's Administrative Policies and Procedures, Sections I and II, will remain in effect. (Ord. 09-07 § 1). ■