

CHAPTER 723
Secondhand Dealers

723.01	Definitions	723.13	Records and Other Duties
723.03	Application of Regulations	723.15	Refusal or Revocation of License
723.05	License Required	723.17	Appeals
723.07	License Application and Investigation	723.18	Recovery of Stolen Goods
723.09	Fee; Term; Transfer; Display	723.99	Penalties
723.11	Inspections and Tests of Weights & Measures		

CROSS REFERENCES

Power to Regulate - see ORC 715.61 et. seq.

Receiving Stolen Property - see GEN. OFF. 545.15

723.01 DEFINITIONS.

(a) Precious Metals: Manufactured articles composed wholly or in part of gold, silver, platinum or other precious metal, or jewel or precious stone of any description.

(b) Secondhand Articles: The personal property of another which has previously been worn or used by another or owned by a person not a dealer in such articles, and for the purposes of this Chapter, include:

- (1) Furs;
- (2) Typewriters, adding machines, multigraphs, comptometers, addressographs, check protector, computers, fax machines, printers or other office machinery;
- (3) Pawnbroker's tickets or other evidence of pledged articles;
- (4) Tools of artisans, mechanics or laborers;
- (5) Cameras;
- (6) Musical Instruments;
- (7) Televisions, video monitors, record players, tape players, tape recorders, disc players, DVD players, mp3 players, stereo equipment, video cassette recorders or other transmitters, radios, radio receivers;
- (8) Video game systems or other video game equipment, video game compact players, other video equipment,
- (9) Compact discs, cassette tapes, DVD discs, video game cartridges;
- (10) Telephones, cellular telephones, answering machines, pagers, PDAs, laptops; and
- (11) Microwave ovens.

(c) Secondhand Articles shall not be construed to mean:

- (1) Any personal care items, toiletries, or other consumer products used for beautification or personal hygiene, such as shampoo, soap, lotion, cosmetics, fragrances, skin care products, etc., whether used or new.
- (2) Gift Cards of any type.

No Secondhand Dealer licensed under this Chapter shall engage in the purchase, receiving, selling or exchange of such personal care items or gift cards.

(d) Secondhand Dealer: Any person, partnership, corporation or other entity that engages in:

- (1) The purchase, sale, receiving or exchange of secondhand articles;
- (2) The purchase, sale, receiving or exchange of precious metals;

- (3) The purchase, sale, receiving or exchange of old gold, silver, platinum or other precious metals for the purpose of melting or refining;
 - (4) The melting of precious metals for the purpose of selling the melted metals.
- (Ord. 2009-08. Passed 05/04/09; Ord. 2011-02. Passed 03/21/11; Ord. 2011-09. Passed 04/18/11)

723.03 APPLICATION OF REGULATIONS.

Nothing in this Chapter shall be deemed to apply garage or yard sales, businesses exclusively engaged as consignment shops, used vehicle dealerships, used furniture stores, nonprofit organizations registered with the State of Ohio, or to persons licensed by the State of Ohio as a pawnbroker.

(Ord. 2009-08. Passed 05/04/09)

723.05 LICENSE REQUIRED.

(a) New Dealers: No person, partnership, corporation or other entity shall engage in the business of a secondhand dealer until a license to engage in such business has first been obtained.

(b) Existing Dealers: Those persons or businesses already engaged in the business of a secondhand dealer as of the effective date of this Chapter shall have thirty (30) days from the effective date to make application for the required license.

(c) Restrictions: No license shall be issued to any applicant if the applicant, any of the persons owning or having an interest in the business, or any employee of the business has been convicted of any felony or any crime involving fraud, theft, or receiving or possessing stolen property in the five (5) years immediately preceding the date of the license application.

(Ord. 2009-08. Passed 05/04/09)

723.07 LICENSE APPLICATION AND INVESTIGATION.

(a) Application: Every applicant for a license shall make application, per business location, to the Chief of Police, upon the form provided by the City, which application shall set forth the name under which the business is to be conducted; the name of every person owning or having an interest in the business; the name of any person to be employed in the business; the location where the business is to be conducted; and the types of articles to be purchased, sold, received or exchanged. The application must be made by the person who is to conduct the business.

(b) Investigation:

- (1) Upon receipt of an application for a license required by this Chapter, the Chief of Police shall cause an investigation to be made to determine the lawfulness of the applicant's business enterprise and to determine if any owner, shareholder, member, director, officer, employee or any person having a financial interest in the business has been convicted of any felony or any crime involving fraud, theft, or receiving or possessing stolen property in the five (5) years immediately preceding the date of the license application. Said investigation may include, upon the request of the Chief of Police, a fingerprinting/fingerprint investigation of the applicant/owner.
- (2) Upon completion of his investigation, the Chief of Police may approve or disapprove the application, and shall notify the applicant by certified mail of his decision. If the application is approved, the Chief shall issue a license in accordance with this Chapter.

(Ord. 2009-08. Passed 05/04/09)

723.09 FEE; TERM; TRANSFER; DISPLAY.

(a) Fees:

- (1) *New Application:* When application for a secondhand dealer license is made, the applicant shall pay a nonrefundable investigation license fee, payable to the City of Franklin, of one hundred dollars (\$100.00) per application.
- (2) *Renewals:* When an application for renewal is made prior to the expiration of an existing license, the applicant shall pay a nonrefundable investigation licenses renewal fee of fifty dollars (\$50.00).
- (3) No fees payable under this Chapter shall be refundable in any case.

(b) Term: Licenses required by this Chapter shall be issued annually and shall expire on December 31st of each year.

(c) Transfer: Licenses issued pursuant to this Chapter shall not be transferable to any other person and the business may only be conducted at the location for which the license is issued. A change in the financial interest of the business enterprise of fifty percent (50%) or more shall be deemed a transfer and shall require a new application for a license being filed with the City.

(d) Display: The license must be placed at the business location so as to be conspicuously visible. No secondhand dealer, not licensed as a pawnbroker, shall display any sign or other device in or about the business location that in any way resembles the emblem or sign commonly used by pawnbrokers, or which is intended to give the appearance that the business conducted on such premises is, or is connected with, the business of a pawnbroker and calculated to so mislead.
(Ord. 2009-08. Passed 05/04/09)

723.11 INSPECTIONS AND TESTS OF WEIGHTS AND MEASURES.

(a) State Inspection and Test: Every applicant for a secondhand dealers license who intends to trade in precious metals must obtain an inspection and test from the Ohio Division of Weights and Measures of any and all scales, balances or other instruments and devices used for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices used at the business location.

(b) Certification Required: The applicant must file with the license application a certification from the Weights and Measures Superintendent that the required inspection and testing have taken place and that the scales, balances, instruments, devices, appliances and accessories give a correct weight. If the applicant/owner makes the decision to trade in precious metals after a license has already been issued, the applicant/owner shall file the required certification with the Chief of Police before undertaking such business.

(c) Revocation: Failure to comply with this section may result in revocation of the secondhand dealer's license.
(Ord. 2009-08. Passed 05/04/09)

723.13 RECORDS AND OTHER DUTIES.

(a) Records:

- (1) Every secondhand dealer located within the City shall maintain a record book of their transactions. Such record book shall be bound, with pages sequentially numbered, in what shall be written, legibly and in English, the following information:
 - A. The date and time when the purchase, exchange or receipt of the secondhand article or precious metal was received;
 - B. An accurate description of the secondhand article or precious metal, including the serial number, the manufacture's trade name, model name or number, if available, and any identifying inscription or marks;
 - C. The consideration received by the seller for the secondhand article or precious metal;
 - D. The name of the employee conducting the transaction;
 - E. The tag number of the secondhand article or precious metal; and
 - F. The name, address, driver's license number or identification number and the signature of each person or persons from whom such article or precious metal was received. Each secondhand dealer shall require the person or persons who bring items to such business to present photo identification at the time each such business requires the person or persons to sign the record book.

- (2) No pages shall be removed from any record book, nor shall any entry be erased, obliterated, altered or defaced.
- (3) Record books required to be maintained under this Chapter shall be maintained for a three-year period and shall be made immediately available for inspection to any law enforcement agency or officer upon request.
- (4) In the alternative to the above requirements to maintain a record book, the secondhand dealer may choose to participate in an online reporting program, as established and approved by the Chief of Police.
- (5) Any secondhand dealer located within the City which does not comply with the provisions of the Section shall have its license immediately cancelled and shall cease operations until such time as it has provided proof of its compliance with this Section and has reapplied for the required license, in addition to any penalties that may be imposed pursuant to this Chapter or Ohio law.

(b) Tagging: Every secondhand dealer shall, at the time of purchase, exchange or upon receipt of any secondhand article or precious metal, shall attach a tag with a designating number thereon, legibly printed in ink and in English, to each article or precious metal so received or acquired, and shall make an entry of such number in the record book.

(c) Minimum Holding Period: No secondhand dealer shall sell, exchange, remove from his place of business, or alter in any manner from the condition it was received in, any secondhand article or precious metal received by him until the same has been in his possession for at least seventy-two (72) hours. Secondhand articles and precious metals shall be immediately available for inspection to any law enforcement agency or officer upon request.

(d) Purchases from Drunkards or Thieves: No secondhand dealer shall purchase, exchange or receive any secondhand article or precious metal from any person who is at the time intoxicated, from a person the dealer knows to be a habitual drunkard, from any person the dealer knows to be a convicted thief or receiver of stolen property.

(e) Purchases from Known or Suspected Thieves: The Chief of Police may provide a list, as he deems appropriate, of the names and descriptions of persons known to be or who are suspected to be thieves or receivers of stolen property. No secondhand dealer shall purchase or receive articles from any person identified on the list the secondhand dealer from the Chief of Police.

(f) Purchases from Minors: No secondhand dealer shall purchase, exchange or receive any secondhand article or precious metal from a minor under the age of eighteen (18) years.

(g) Change in Ownership or Employees: Every secondhand dealer licensed under this Chapter shall inform the Chief of Police of any change in persons owning or having a financial interest in the business, or change in persons employed by the business, within five (5) days of such change.

(Ord. 2009-08. Passed 05/04/09; Ord. 2010-15. Passed 08/02/10; Ord. 2011-21. Passed 11/07/11)

723.15 REFUSAL OR REVOCATION OF LICENSE.

(a) Refusal to Issue: The Chief of Police may refuse to issue a secondhand dealer's license for any of the following reasons:

- (1) The applicant, any of the persons owning or having an interest in the business, or any employee of the business has been convicted of any felony or any crime involving fraud, theft, or receiving or possessing stolen property in the five (5) years immediately preceding the date of the license application;

- (2) Fraud, misrepresentation or false statement contained in the application;
- (3) Failure to provide the certification required by 723.11; or
- (4) Within the previous twelve (12) months, the applicant has had a secondhand dealer's license revoked under subsection (b) hereof.

(b) Revocation or Refusal to Renew: The Chief of Police may immediately revoke, or may refuse to renew, a secondhand dealer's license for any of the following reasons:

- (1) Fraud, misrepresentation or false statement made in the course of carrying on the business of a secondhand dealer;
- (2) Any of the persons owning or having an interest in the business, or any employee of the business being convicted of any felony or any crime involving fraud, theft, or receiving or possessing stolen property;
- (3) Fraud, misrepresentation or false statement contained in the application;
- (4) Failure to provide the certification required by 723.11;
- (5) Any violation of this Chapter;
- (6) Any violation of the Codified Ordinances of the City or of the Ohio Revised Code relating to the business enterprise; or
- (7) Conducting the business of a secondhand dealer in an unlawful manner or in such a manner as to constitute a menace to the health safety or general welfare of the public.

(c) Prohibitions: No secondhand dealer shall be permitted to operate without a license issued in accordance with the Chapter. The Chief of Police is authorized to seal, shut up, lock or take other legal measures as he may deem necessary to prevent the operation of an unlicensed secondhand dealer. (Ord. 2009-08. Passed 05/04/09; Ord. 2010-15. Passed 08/02/10)

723.17 APPEALS.

(a) Written Notice: In the event a secondhand dealer's license is not approved for issuance or renewal, or in the event a secondhand dealer's license is revoked, the applicant/licensee shall be notified of the refusal or revocation in writing. Such written notice shall be sent by certified mail to the applicant/licensee at the address of the applicant/licensee given on the license application.

(b) Time for Appeal: The applicant/licensee shall have ten (10) days from receipt of said notice to appeal the refusal or revocation. Such appeal shall be perfected by the applicant/licensee filing a written notice of appeal with the City Manager.

(c) Hearing: Thereupon, the applicant/licensee shall have not less than ten (10) days notice of the date and place of the appeal hearing. The appeal shall be heard by the City Manager, who may subpoena witness and records in connection with said hearing.

(d) Action by City Manager: The City Manager shall confirm the refusal or revocation, or to order that the license be issued, renewed or valid. The decision of the City Manager shall be final, and he shall cause notice of his decision to be sent by certified mail to the applicant/licensee at the address of the applicant/licensee given on the license application, within thirty (30) days of the date of the hearing. (Ord. 2009-08. Passed 05/04/09)

723.18 RECOVERY OF STOLEN GOODS.

(a) Notification of True Owner: If the Franklin Police Department receives a report that property has been stolen and determines the identity of the true owner of the allegedly stolen property that has been purchased and is held by the secondhand dealer, it shall notify the secondhand dealer of the identity of the true owner of the allegedly stolen property. Upon receipt of such notice, the secondhand dealer shall retain the allegedly stolen property until the expiration of thirty (30) days after the day on which the

secondhand dealer received said notice. Further, upon notification from the Franklin Police Department of the identity of the true owner of the property, the secondhand dealer may restore the allegedly stolen property to the true owner directly or through the Franklin Police Department.

(b) Rights of True Owner: If the secondhand dealer fails to restore the allegedly stolen property, the true owner may recover the property from the secondhand dealer in an action at law.

(c) Rights of Secondhand Dealer: If the secondhand dealer returns the allegedly stolen property to the true owner, the secondhand dealer may charge the person who sold the allegedly stolen property to the secondhand dealer, and any person who acted in consort with the seller to defraud the secondhand dealer, the amount the secondhand dealer paid for the allegedly stolen property in an action at law.

(d) Receiving Stolen Property: Nothing in this section shall prohibit the secondhand dealer from being charged with receiving stolen property when such charges are warranted.
(Ord. 2009-08. Passed 05/04/09; Ord. 2010-15. Passed 08/02/10)

723.99 PENALTIES.

(a) Whomever violates any provisions of this Chapter shall be guilty of a misdemeanor of the third degree, and shall be fined not more than five hundred dollars (\$500) nor less than two hundred and fifty dollars (\$250), or imprisoned for not more than sixty (60) days, or both, if an individual, and shall be fined not more than three thousand dollars (\$3,000) nor less than one thousand five hundred dollars (\$1,500), if an organization, for each offense.

(b) If the offender has previously plead guilty to or been convicted of a violation of this Chapter, a violation of this Chapter is a misdemeanor of the first degree, and the person shall be fined not more than one thousand dollars (\$1,000) nor less than five hundred (\$500) dollars, or imprisoned for not more than one hundred eighty (180) days, or both, if an individual, and shall be fined not more than five thousand dollars (\$5,000) nor less than two thousand five hundred (\$2,500) dollars, if an organization, for each offense.

(Ord. 2009-08. Passed 05/04/09)