

ORDINANCE NO. 994

AN ORDINANCE AMENDING THE STAYTON MUNICIPAL CODE TITLE 5, CHAPTERS 5.08 AND 5.32 RELATING TO BUSINESS LICENSES, PERMITS, REGULATIONS, AND VIOLATIONS AND SECONDHAND DEALERS AND PAWNBROKERS.

WHEREAS, the City of Stayton has Municipal Code that regulates Secondhand Dealers and Pawnbrokers;

WHEREAS, the City of Stayton received a request from local businesses to update the Stayton Municipal Code to reflect industry standards;

WHEREAS, the City of Stayton desires to update the Stayton Municipal Code (SMC) Title 5.08 to require licensing of Secondhand Dealers and Pawnbrokers who operate within the City; and,

WHEREAS, the City of Stayton desires to update the SMC Title 5.32 to amend regulations in regards to Secondhand Dealers and Pawnbrokers.

NOW THEREFORE, the City of Stayton ordains:

SECTION 1. SMC Section 5.08.010 is amended to read as: (additions are underlined; deletions appear as strikethroughs):

d. Secondhand dealer

e. Pawnbroker

SECTION 2. SMC Section 5.08 is amended to fix the code numbering sequence.

SECTION 3. SMC Chapter 5.32 relating to Secondhand and Pawnbrokers is amended to read as set forth in Exhibit A, attached hereto as incorporated herein, replacing and superseding the current text of SMC Title 5.32

SECTION 5. Upon enactment by the Stayton City Council and the Mayor's signature, the Ordinance shall become effective 30 days after enactment.

ADOPTED BY THE STAYTON CITY COUNCIL THIS 16th DAY OF, 2016.

CITY OF STAYTON

Signed: 2/17/2016

By: Henry A. Porter
Henry A. Porter, Mayor

Signed: 2/17/2016

ATTEST
By: Keith D. Campbell
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:

David A. Rhoten
David A. Rhoten, City Attorney

CHAPTER 5.08

BUSINESS LICENSES, PERMITS, REGULATIONS, AND VIOLATIONS

SECTIONS

5.08. 1 010	License/Permit Required
5.08. 1 020	Application for License
5.08. 1 030	Application Review
5.08. 1 040	License/Permit Fees: Computation and Payment
5.08. 1 050	[repealed] (Ord. 935, July 1, 2011)
5.08. 1 060	License/Permit Fees: Collection Costs and Attorney
5.08. 1 070	Exemptions from License/Permit Requirements
5.08. 1 080	License/Permit Issuance: Recordkeeping
5.08. 1 090	[repealed] (Ord. 935, July 1, 2011)
5.08. 2 100	Transfer or Assignment of License/Permit
5.08. 2 110	Display of License/Permit
5.08. 2 120	License/Permit Renewal: Late Penalty
5.08. 2 130	Revocation or Suspension of License/Permit
5.08. 2 140	Appeals
5.08. 2 150	Violation and Penalty (Ord. 935, July 1, 2011)

5.08.~~1~~010 LICENSE/PERMIT REQUIRED

1. No person shall engage in any of the following businesses or activities within the City limits without first obtaining a license or permit as provided in this Title, except as otherwise exempted herein: (Ord. 935, July 1, 2011)
 - a. Carnival, amusement park, amusement concessionaire;
 - b. Garage sale;
 - c. Junk dealer;
 - d. Secondhand Dealer;
 - ~~e.~~ Pawn Broker;
 - ~~d.~~ Promotional event; ~~or~~
 - ~~e.~~ Solicitor; ~~or~~
 - ~~f.~~ Marijuana Dispensary (Ord. 987, September 21, 2015)

2. The term of a license or permit shall be on a twelve (12) month cycle (commencing on the month of issuance) unless otherwise indicated. (Ord. 668, July 2, 1990)

[repealed section 3] (Ord. 987, September 21, 2015)

5.08.~~020~~ APPLICATION FOR LICENSE

Application for all licenses and permits required by this Title shall include information necessary to determine the identity and address of the applicant and of the owner of any enterprise, nature of activity, or device to be licensed, and shall include such other information required by this Title or that accomplishes an appropriate review. The application shall be signed by the applicant. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.~~030~~ APPLICATION REVIEW

1. The Administrator shall refer any license/permit application to any person, department, or agency of the City or any party otherwise deemed appropriate to review the application.
2. In reviewing the qualifications of an applicant, the following shall be considered, when appropriate:
 - a. Conformity of the proposed activity or use of device to this Code and with state, and federal law;
 - b. Unreasonable dangers to public health, safety, or property which may result from the proposed activity or use of the device or activity;
 - c. Past violations of laws or municipal code by the applicant or employees; and
 - d. Other considerations as to prior business practices, protection of the public health, safety and welfare, and as otherwise specifically required by this Title. (prior code 3.045)
3. Upon receipt and review of the application by the reviewing party, each shall endorse the application as satisfactory or not satisfactory and return the application to the Administrator, who shall approve the application and issue the license/permit, or deny the application and notify the applicant in writing the reasons for such denial. The notice shall inform the applicant of the provisions of this Chapter providing for appeal to the City Council. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.~~040~~ LICENSE FEES: COMPUTATION AND PAYMENT

1. No license or permit shall be issued until payment of fees, if any, as designated in and in accordance with a resolution to be approved by the City Council.

2. [repealed] (Ord. 935, July 1, 2011)
3. [repealed] (Ord. 935, July 1, 2011)
4. A person engaged in carrying on more than one business enterprise or activity designated in this Title shall pay the license/permit fee required for each business enterprise or activity. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.4050 [repealed] (Ord. 935, July 1, 2011)

5.08.4060 LICENSE/PERMIT FEES: COLLECTION COSTS AND ATTORNEY FEES

The City may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any fee or late charge due but unpaid under this Title. In any such action, the prevailing party is entitled to recover reasonable attorney fees to be set by the court, in addition to its costs and disbursements. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.4070 EXEMPTIONS FROM LICENSE/PERMIT REQUIREMENTS

The following activities, in addition to those activities otherwise specifically exempted in this Title, shall be exempt from licensing:

1. [repealed] (Ord. 935, July 1, 2011)
2. Dance or performance, carnival, amusement park, amusement concessionaire, operated, or conducted by or for the sole benefit of any civic organization. (Ord. 935, July 1, 2011)
3. Person(s) collecting donations of personal property or money for any civic organization or in connection with any recognized, nationally conducted charity or in connection with any local civic activity. (Ord. 935, July 1, 2011)
4. Sidewalk sale, flea market, rummage sale, or other similar activity conducted on an infrequent basis by any group in connection with a civic organization. (Ord. 935, July 1, 2011)
5. Upon receipt of written request, the Administrator may exempt other activities or devices from the licensing provisions of this Title when, in the Administrator's judgment, it does not appear that the purposes of this Title would be served by such licensing. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.~~1~~080 LICENSE/PERMIT ISSUANCE: RECORDKEEPING

1. After receipt of reports from all persons, departments, and agencies designated to review an application, the Administrator shall determine whether the applicant qualifies for issuance of a license/permit, in accordance with the requirements of Section 5.08.130.2. If the applicant so qualifies, upon first payment of the license/permit fee, the Administrator shall issue the license/permit. (Ord. 935, July 1, 2011)
2. Such license/permit shall contain the signature of the Administrator, and shall show the name and address of the licensee, the class of license issued, the kind of goods or services to be provided thereunder, the amount of fee paid, the date of issuance, and the expiration date. In the case of itinerant merchants and solicitors, it shall also bear a photograph of the licensee taken at the time of application. (Ord. 935, July 1, 2011)
3. The Administrator shall keep a record of all licenses/permits issued in accordance with the state public records laws. (Ord. 668, July 2, 1990)

5.08.~~1~~090 [repealed] (Ord. 935, July 1, 2011)

5.08.~~2~~100 TRANSFER OR ASSIGNMENT OF LICENSE/PERMIT

1. No license or permit issued under the provisions of this Title shall be used at any time by any person other than the one to whom it was issued, unless duly assigned or transferred as provided herein.
2. Any assignment or transfer of a license or permit shall be invalid unless approved by the Administrator, but if any person sells or transfers the entire enterprise for which such license has been paid, and the transfer is approved, then the purchaser of that enterprise is not required to pay an additional license fee for the balance of the term for which the fee was previously paid. (Ord. 668, July 2, 1990)

5.08.~~2~~110 DISPLAY OF LICENSE/PERMIT

1. A license or permit issued for an activity at a fixed place of business shall be displayed at all times on the premises where it can be easily read.
2. A license or permit issued for an activity which is not at a fixed place of business shall be displayed at all times by the licensee or permittee and all designated employees while engaged in the activity. Upon request, the licensee or permittee or any designated employee shall show the license or permit to any person with whom the individual is dealing as part of the licensed or permitted activity or to an officer of the City. (Ord. 935, July 1, 2011)

3. [repealed] (Ord. 935, July 1, 2011)

5.08.2120 LICENSE/PERMIT RENEWAL: LATE PENALTY

1. The application for renewal of an annual license or permit shall be made to the Administrator prior to the license/permit expiration date.
2. A penalty of twenty-five (25%) percent, of the fee shall be added to the license fee accompanying any late renewal application. (Ord. 935, July 1, 2011; Ord. 668, July 2, 1990)

5.08.2130 REVOCATION OR SUSPENSION OF LICENSE/PERMIT

1. Upon determination that a licensed or permitted activity, establishment, or device is in violation of this Code, state, or federal law, the Administrator shall notify the licensee/permittee in writing that the license is to be revoked. The notice shall be mailed (certified mail, return receipt requested) not less than thirty (30) days prior to the effective date of revocation. (Ord. 935, July 1, 2011)
2. Upon determination that a licensed or permitted activity or device presents an immediate danger to the public or property, the Administrator may suspend a license/permit at once. The suspension shall take effect immediately upon notice being received by the licensee/permittee. The Administrator may continue a suspension so long as the reason for the suspension exists or until other disposition is made by the City Council.
3. Notice of revocation or suspension shall be in writing, shall state the reason for revocation or suspension, the effective date thereof, and shall inform the licensee/permittee of appeal rights as provided herein.
4. [repealed] (Ord. 935, July 1, 2011)

5.08.2140 APPEALS

1. Any applicant, licensee, or permittee aggrieved by the action of the Administrator in the denial, suspension, or revocation of a permit or license or by the action of the Administrator in the determination of the fee, shall have the right to appeal to the City Council. (Ord. 935, July 1, 2011)
2. If a notice of revocation has been appealed, the revocation shall not take effect until final determination of the appeal by the City Council.
3. Such appeal shall be perfected by filing a written statement with the City Council setting forth fully the grounds for such appeal. The statement shall be filed within fourteen (14) days after notice of the action complained of has been mailed to the applicant. (Ord. 935, July 1, 2011)

4. The City Council shall set a time and place for a hearing on such appeal and notice of the hearing before the Council shall be mailed to the licensee/permittee at the place of business that appears in the City's license/permit records at least ten (10) days prior to the date set for a hearing. (Ord. 935, July 1, 2011)
5. The decision and order of the City Council on such appeal shall be final. (Ord. 668, July 2, 1990)

| 5.08.2150 VIOLATION AND PENALTY

[repealed sections 1 – 5] (Ord. 935, July 1, 2011)

A violation of this Title is punishable by a fine set by Council Resolution. (Ord. 987, September 21, 2015).

CHAPTER 5.32
SECONDHAND DEALERS AND PAWN_BROKERS

SECTIONS

- 5.32.010~~810~~ License Required
- 5.32.020 License Exemptions
- 5.32.030~~820~~ Recordkeeping
- 5.32.040~~830~~ Record Forms
- 5.32.050 Regulated Property
- 5.32.060~~840~~ Property Sales
- 5.32.070~~850~~ Articles to be Tagged
- 5.32.080~~860~~ Dealings with Minors and Those Under the Influence of Intoxicants Prohibited
- 5.32.090~~870~~ Inspection of Articles and Records
- 5.32.100~~880~~ Penalty

5.32.010~~810~~ LICENSE REQUIRED: APPLICATION

1. Secondhand Dealers and Pawn Brokers as defined in this Title, doing business in the City shall have a City business license unless otherwise exempted herein. There shall be a separate license for each addressed location that a business operates at within the City.
2. A Secondhand and Pawn license is valid for a term of one year and expires on December 31st of each year.
3. Secondhand Dealers and Pawn Brokers must comply with all Federal, State, and Local laws.
4. Each licensee shall pay an annual licensing fee set by Council resolution

5.32.020 LICENSE EXEMPTIONS

The following types of businesses and activities are exempt from this chapter:

1. A person who engages in, conducts, manages, or carries on any business that does not buy regulated property outright, but occasionally accepts in trade regulated property as part or full payment for new articles, where such business is incidental to the primary business of the sale of new articles or a repair service;
2. A person who engages in, conducts, manages, or carries on any business that deals exclusively in the purchase and sale of used whole automobiles, books or books on tape, trading cards and sports memorabilia, individual video games, music, clothing, furniture, major household electric or gas appliances, or farm implements and machinery;

3. A person, who engages in, conducts, manages, or carries on any business that deals exclusively in purchasing full or partial estates. The purchaser shall keep a receipt for these items for at least one year;
4. A person who engages in, conducts, manages, or carries on any nonprofit corporation or association that purchases, sells or otherwise exchanges only donated articles;
5. A person whose purchases do not exceed 50 items of regulated property each year;
6. A person who buys and sells regulated property which consists of the sale of their own personal property acquired for household or other personal use; or
7. A person who has an event commonly known as a “garage sale,” “yard sale,” or “estate sale” which is regulated by Chapter 5.16.

5.32.~~82~~030 RECORDKEEPING

1. Any sSecondhand dDealer or pPawnb Broker conducting a business in the City, shall submit to the City, documentation of the transactions for regulated property in a format set forth by the City which includes all of the information set forth by the City. This format may be, but not limited to electronic submission and/or paper copies of transactions.
2. If the City changes the format for reporting, the business will have 60 days to comply with the new format. If the business can not comply within the allotted time, they shall submit a written request for additional time to the City before the deadline. Additional time may not be indefinite but must be reasonable.
- ~~1-3.~~ Pawn Brokers are required only to report new transactions. Loan renewals do not need to be reported.~~keep a daily ledger written in the English language, in indelible form, of any articles received on deposit, pledged, or purchased, including a description thereof; day and hour of purchase; name and address of person from whom received on deposit, pledged, or purchased; the form of identification shown; the amount loaned or price paid; and, if applicable, the number of the pawn ticket. Such record shall be open for inspection by any police officer at all reasonable times. No entry in such records may be changed, erased, obliterated, or defaced (prior code 3.203).~~
4. ~~Pawn tickets issued shall be numbered consecutively, and if stubs are used in connection with such pawn tickets, each stub shall be numbered consecutively to conform to the ticket.~~All records for “regulated property” shall be kept in an orderly manner on the Secondhand Dealer or Pawn Broker’s premises and open for reasonable inspection by peace officers upon demand. Each Secondhand Dealer or Pawn Broker shall keep a paper or electronic record of each purchase bearing the signature and/or fingerprint of the customer for a period of one year.

~~2.5.~~ If any ~~article-regulated property~~ on deposit, pledge, or purchase has engraved thereon any number, word, or initials, or contains any setting of any kind, the description in the records shall contain such number, word, or initial, and shall show the kind of settings and number of each kind.

~~3.6.~~ No ~~s~~Secondhand ~~d~~Dealer or Pawn Broker shall be required to record the description of any property purchased from manufacturers or wholesale dealers having an established place of business, or secured from any person doing business and having an established place of business in the City, but such goods shall be accompanied by a bill of sale or other evidence of legitimate purchase and must be shown to any police officer upon request.

7. The records concerning ~~regulated property~~~~article or materials~~ shall be kept for at least one (1) year after the date of receipt of such articles or materials. When any business is discontinued, such records or duly authenticated copies thereof shall be delivered to the Police Department or shall be disposed of as it directs.

5.32.~~040~~~~830~~ RECORD FORMS

In addition to any other records required to be kept by this Chapter, all ~~s~~Secondhand ~~d~~Dealers and ~~p~~Pawn ~~b~~Brokers shall, at the time of taking, receiving, or purchasing any article for the business, ~~place~~~~enter~~ the ~~item and~~ description of the ~~following regulated property~~~~articles~~ or things pledged, pawned, received, or purchased, ~~upon a pawn ticket~~ as well as the ~~sellers information into an electronic reporting system approved by the City. Seller's information shall be verified with photo identification and signature or fingerprint:~~

5.32.050 REGULATED PROPERTY

1. Regulated property is a type of property that has been determined by law enforcement to be property frequently the subject of theft or other criminal activity. The following list of regulated property may be added to by the Chief of Police in writing to the Secondhand and Pawn Brokers if a particular type of property becomes prone to criminal activity.

- a. Jewelry, watches, gems, or precious metals with a retail market value of over fifty dollars (\$50.00);
- b. Television, video and stereo equipment;
- c. Cameras and camera equipment;
- d. Firearms, operable or not operable;
- e. Sporting equipment specifically and individually identifiable by way of a serial number or some other marking;~~Furniture with a retail market value of over five hundred dollars (\$500.00);~~
- f. Power tools;
- g. Electronic devices such as but not limited to: Computers, phones, electronic tablets, and electronic gaming devices;

- h. Musical instruments that are specifically and individually identifiable by way of a serial number or some other marking;
 - i. Individual Coins and Currency that are certified by a nationally recognized certifying agency; and
 - j. Coins, currency, and token collections that are valued over \$1,000.
2. The following list of properties are exempt from reporting:
- a. Precious metals in the form or bullion bars or rounds such as but not limited to gold, silver, platinum, and palladium;:
 - b. Postage stamps, stamp collections and philatelic items with no unique identifier, unless they are over \$500 in value or certified;
 - c. Individual video game cartridges;
 - d. Individual movies;
 - e. Individual books that are mass produced with no unique identifier, unless they are over \$250 in value; and
 - f. Coins, currency, and tokens unless certified by a nationally recognized certifying agency; and
 - g. Clothing

The above lists do not preclude an item from being documented as regulated property if a dealer believe there is a need to track the item.

~~The pawn ticket form shall be approved by and shall include such information as the Chief of Police may direct. Every person regulated by the provisions of this Chapter shall deliver to the Police Department every Monday all such pawn tickets describing articles or things pledged, pawned, bought, taken, or received during the preceding week; such pawn tickets must be fully completed.~~

5.32.060~~840~~ PROPERTY SALES

1. No regulated property listed in this Chapter shall be sold from the secondhand dealer or pawnbroker's place of business for seven (7) days after purchase.
2. Whenever any police officer serves notice in writing to any ~~s~~Secondhand ~~d~~Dealer or ~~p~~Pawn ~~b~~Broker not to sell any property received on deposit, or purchased, or permit same to be redeemed, the property shall not be sold, redeemed, or otherwise disposed of until such time as may be determined by the Police Department, not exceeding fifteen (15) days from the day of notice aforesaid. Any property purchased by the dealer which is determined

to be stolen property, may be seized by the Police Department and may be returned to the rightful owner without any recovery of purchase price to the dealer from the owner or the City.

5.32.~~070850~~ ARTICLES TO BE TAGGED

Any ~~s~~Secondhand ~~d~~Dealer or ~~p~~Pawn ~~b~~Broker receiving in pledge, by purchase or otherwise, any article or goods shall affix to the article or goods a tag upon which shall be written a number, in legible characters, which number shall correspond to the number in the book required to be kept as heretofore provided or provide an alternative form of identifying articles to correspond to the book record approved by the Police Department.

5.32.~~080860~~ DEALINGS WITH MINORS AND PERSONS UNDER THE INFLUENCE OF INTOXICANTS PROHIBITED

No secondhand dealer or pawnbroker shall buy or receive on deposit or for pledge any article or thing whatsoever from or sell any article or thing to any person under the influence of intoxicants. No ~~s~~Secondhand ~~d~~Dealer or ~~p~~Pawn ~~b~~Broker shall buy or receive on deposit or for pledge any article or thing whatsoever from any person under the age of eighteen (18) years.

5.32.~~090870~~ INSPECTION OF ARTICLES AND RECORDS

Any person doing business as a ~~s~~Secondhand ~~d~~Dealer or ~~p~~Pawn ~~b~~Broker, and any person employed by such business, shall permit a representative of the Police Department entry to the business premises for the limited purpose of inspecting any articles received on deposit, pledged, or purchased in the business as regulated by this Chapter and/or the records incident thereto, to ensure compliance with the provisions of this Title. Such inspections may be made at any reasonable time.

5.32.~~100880~~ PENALTY

Violation of this Chapter is punishable by a fine set by Council resolution.