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1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR THE COUNTY OF LINCOLN

3 Ordinance No. 104

4 AN ORDINANCE PROVIDING FOR THE REGULATION OF JUNK AND SECONDHAND
5 DEALERS, AND REPEALING LINCOLN COUNTY ORDINANCE #4, 1969.

6 The Board of County Commissioners for Lincoln County,
7 Oregon ordains as follows:

8 SECTION I: FINDINGS AND PURPOSE.

9 (1) The Board finds that:

10 (a) Junk and secondhand dealers may knowingly or
11 unknowingly be a conduit for the sale or purchase of
12 stolen property.

13 (b) Such business should be regulated by requiring
14 a license issued by the Board of County Commissioners.

15 (c) Licenses for junk and secondhand dealers should
16 be denied, suspended or revoked when the conduct of such
17 business presents a threat to the peace, health or safety
18 of the people of Lincoln County.

19 (d) ORS 670.210 to 670.240 authorizes the regula-
20 tion of junk and secondhand dealers by Lincoln County.

21 (2) The purpose of this ordinance is to provide for the
22 peace, health and safety of the citizens of Lincoln County by regu-
23 lating junk and secondhand dealers.

24 SECTION II: DEFINITIONS.

25 As used in this ordinance, unless the context requires
26 otherwise:

1 (a) "Board" means the Lincoln County Board of
2 Commissioners.

3 (b) "District Attorney" means the Lincoln County
4 District Attorney.

5 (c) "Garage Sale" means a sale of secondhand articles
6 or junk by a private individual at a private residence
7 where such sale does not occur more than twice each calen-
8 dar year. "Garage Sale" includes the sale of secondhand
9 articles or junk by religious, charitable, fraternal or
10 other eleemosynary organizations, provided that such sales
11 occur not more than six times each calendar year.

12 (d) "Junk" includes, but is not limited to, old
13 rope, old iron, brass, copper, tin, lead, rags, empty
14 bottles, paper bagging, scrap metals of all kinds and
15 other worn out or discarded material.

16 (e) "Junk Dealer" means any person who owns and
17 operates a junk shop, except for a person conducting a
18 garage sale.

19 (f) "Junk Shop" means any store room, building,
20 yard, enclosure or other place where junk is sold or
21 bought for profit or pleasure, provided, however, that
22 such definition shall not apply to automobile wreckers
23 where automobiles are purchased and certificate of title
24 furnished.

25 (g) "Secondhand Articles" means any used personal
26 property except books, including, but not limited to,

1 used wearing apparel, tools, goods, wares or merchandise
2 or other articles and things usually found in a second-
3 hand store.

4 (h) "Secondhand Dealer" means any person who buys,
5 sells or otherwise deals in secondhand wearing apparel,
6 tools, goods, wares or merchandise or other articles and
7 things usually found in a secondhand store, except books,
8 or any person who goes from house to house or place to
9 place within the County purchasing or soliciting the pur-
10 chase of gold, silver or other precious metals or jewelry.
11 For purposes of this ordinance, a secondhand dealer shall
12 not include a person conducting a garage sale or a person
13 whose business is the sale of art objects, furniture or
14 other articles which have a value based on rarity or the
15 time elapsed since the articles were produced.

16 (i) "Secondhand Store" means any store, room, build-
17 ing, yard, enclosure or other place where secondhand arti-
18 cles are bought, sold or traded for profit or pleasure.

19 (j) "Sheriff" means the Lincoln County Sheriff.

20 SECTION III: LICENSES.

21 (1) It shall be unlawful to operate or keep any second-
22 hand store or junk shop without first having obtained a license as
23 provided in this ordinance.

24 (2) No license granted under the provisions of this
25 ordinance shall be assignable.

26

1 SECTION IV: APPLICATION; TEMPORARY LICENSE.

2 (1) Application for a license shall be made upon forms
3 provided by the Board.

4 (2) The application shall constitute a temporary license
5 valid for thirty (30) days. The application, or a copy thereof,
6 shall be referred to the Sheriff of Lincoln County for investigation
7 prior to issuance of a final license. If it appears to the Sheriff
8 that a final license should not be issued to the applicant, the
9 Sheriff shall notify the Board and shall set forth the reasons why,
10 in his opinion, the applicant should be denied a license.

11 SECTION V: ISSUANCE OF LICENSE; REVOCATION.

12 (1) After receiving the report of the Sheriff, the Board
13 may grant a final license to the applicant.

14 (2) Nothing in this ordinance shall be construed to
15 create a vested right in any person to the assignment, renewal or
16 continuance of any license. The final authority on licenses shall
17 be the Board, which may revoke, cancel or refuse the issuance or
18 renewal of any license for the following:

19 (a) Fraud or misrepresentation in it's procurement;

20 (b) Violation of any state or federal statute involv-
21 ing moral turpitude, where the circumstances of the viola-
22 tion adversely reflect on the applicant's or licensee's
23 ability to engage in the occupation, profession, trade
24 or calling in a lawful manner; or

25 (c) Violation of federal or state law or county
26 ordinance relating to the business or activity subject

1 to the license and resulting from the conduct of such
2 business or activity. Conviction of a crime or viola-
3 tion of this ordinance is not required for revocation,
4 non-renewal or refusal to issue a license.

5 (3) At any time the Sheriff or District Attorney may
6 recommend the revocation of any license granted under this ordinance.
7 The recommendation shall be in writing and include the reasons therefor.

8 (4) Whenever the Board refuses to issue, fails to renew
9 or revokes the license of any person, the Board shall afford the ap-
10 plicant or licenseholder an opportunity for a hearing, at which wit-
11 nesses and interested parties may be heard.

12 (5) Re-application after revocation or suspension may be
13 made at any time after revocation or suspension, as provided in Sec-
14 tion IV of this Ordinance.

15 SECTION VI: RENEWAL.

16 Every license issued pursuant to this ordinance shall
17 expire January 15 or each year, and may be renewed upon payment of
18 the fees, as set forth in Section VII of this ordinance.

19 SECTION VII: FEES.

20 The fee for license issued pursuant to this ordinance
21 shall be \$15.00 per annum.

22 SECTION VIII: RECORDS TO BE KEPT; TRANSMITTAL TO SHERIFF.

23 (1) Except as provided in Subsection (2) of this Section,
24 every licensee shall keep a record of articles offered for sale or
25 stored upon the licensee's premises having a licensee purchase value
26 of \$20.00 or more. The records shall be open to inspection by the

1 Sheriff or his deputies during normal business hours and contain the
2 following:

3 (a) The day and hour an article was received,
4 pledged or purchased;

5 (b) The amount loaned or price paid;

6 (c) A description of each article received,
7 pledged or purchased including any number, word or
8 initial engraved on or attached to the article and the
9 style and number of settings.

10 (d) The printed name and signature of the person
11 from whom the purchase was made.

12 (e) The address of the person from whom the pur-
13 chase was made.

14 (f) The identification number required by Section
15 XI of this ordinance.

16 (2) Licensees shall not be required to keep a record
17 as provided in this Section for the following:

18 (a) Property purchased from manufacturers or whole-
19 sale dealers having an established place of business, or
20 secured from any person doing business and having an es-
21 tablished place of business.

22 (b) Articles of the same or similar nature purchased
23 in bulk, lots or groups. As used in this subsection, bulk,
24 lots or groups mean at least twelve articles.

25 (3) Transactions excluded from record-keeping by subsec-
26 tion 2 of this Section shall be accompanied by a bill of sale or

1 other evidence of purchase which must be shown to the Sheriff or his
2 deputy upon request during normal business hours.

3 SECTION IX: SALE POSTPONED BY SHERIFF.

4 If the Sheriff has good cause to believe an article is
5 stolen property, he may notify a licensee not to sell or otherwise
6 dispose of any article received or purchased. In the event of such
7 notification, the article shall not be sold or otherwise disposed
8 of for ninety (90) days after the date of the notice.

9 SECTION X: ARTICLES TO BE TAGGED.

10 Licensees shall affix to all articles subject to
11 record-keeping, pursuant to Section VIII of this ordinance, a tag
12 upon which shall be written an identification number in legible
13 characters.

14 SECTION XI: CERTAIN DEALINGS PROHIBITED.

15 Licensees shall not receive or purchase property from
16 persons under the influence of intoxicants.

17 SECTION XII: GARAGE SALES.

18 Nothing in this ordinance prohibits garage sales as
19 defined in Section II(c) of this ordinance.

20 SECTION XIII: APPEAL.

21 Any person aggrieved by any finding, order or determination
22 of the Board may appeal therefrom to the Circuit Court of Lincoln County
23 as provided by law.

24 SECTION XIV: PENALTIES.

25 (1) Any person who operates any business in violation of
26 this ordinance shall, upon conviction, be imprisoned for not more than

1 thirty (30) days in the county jail, or fined in an amount not exceed-
2 ing \$1,000.00, or both.

3 (2) A failure from day to day to comply with this ordinance
4 shall be a separate offense for each day, pursuant to ORS 670.990.

5 SECTION XV: REPEALER.

6 Lincoln County Ordinance #4, 1969, is repealed.

7 SECTION XVI: EFFECTIVE DATE.

8 This ordinance shall take effect thirty (30) days after
9 enactment.

10 DATED this 24th day of January, 1979.

11 LINCOLN COUNTY BOARD OF COMMISSIONERS

12 Albert R. Strand
13 Albert R. Strand, Chairman

14 Andy Zedwick
15 Andy Zedwick

16 W. S. Ouderkirk
17 W. S. Ouderkirk

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