

CHAPTER 755
Resale Dealers

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CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
 Secondhand dealers - see Ohio R.C. Ch. 4737
 Record of transactions required - see Ohio R.C. 4737.01, 4737.04
 Dealing with minors prohibited; hours regulated - see Ohio R.C. 4737.03
 Receiving stolen property - see GEN. OFF. 545.18

755.01 RETAIL DEALERS GENERALLY; LICENSE REQUIRED.

- (a) No person, unless duly licensed as provided in this chapter or pursuant to state statutes, shall engage in the business of purchasing, selling, exchanging or receiving:
- (1) Used building and construction materials, supplies, equipment and tools including but not limited to hardware and fixtures;
 - (2) Used office equipment including but not limited to computers, printers, facsimile, typewriters, electronic tablets, personal data appliances; or other office machinery;
 - (3) Used sporting goods and/or related physical fitness equipment;
 - (4) Used electronic products including but not limited to televisions, radios, stereo players, cameras, telephones, computerized gaming equipment;
 - (5) Used recordings including all forms of entertainment, such as movies, games or music, whatever the media, content or recording format (such as compact discs (CD), interactive video games, and digital video devices (DVD)).
 - (6) Secondhand and/or scrap metal dealers, including any special purchase articles, or other activity regulated by Ohio R.C. Chapter 4737;
 - (7) Any merchandise as a Pawnbroker or other activity regulated by Ohio R.C. Chapter 4727;
 - (8) Any products as a Precious metals dealer or other activity regulated Ohio R.C. Chapter 4728.

- (b) For purposes of this Chapter, the following definitions shall apply:
- (1) "Resale Dealers" shall include any person engaged in the business of purchasing, selling, exchanging or receiving used goods, products or merchandise, whether wholesale or retail, from commercial storefront premises and/or warehoused in storage facilities, pursuant to local licensing requirements of Section 755.01(a)(1) through (5) and including consignment thereof for sale
 - (2) "Used" means previously owned, secondhand, or not "new" as when offered for sale by the original manufacturer and/or distributor. "Used" is not limited to items previously opened or engaged for its manufactured purpose and includes "new" merchandise offered for sale and resale by owners of products other than the original manufacturer and/or distributor. "Used" includes merchandise refurbished for resale by dealers but does not include merchandise refurbished by the manufacturer and sold through authorized distributors.
 - (3) "Resale article" means any used product, good, or merchandise described in Section 755.01(a)(1) through (5) that is presented by any person to a Resale Dealer in exchange for cash, credit, trade or other valuable consideration with an aggregate resale price over one hundred dollars (\$100.00) or on consignment therefore. For purposes of such aggregate resale price, the Resale Dealers shall include total weekly transactions by any person based upon sum of resale prices established and shall not knowingly permit any person to divide or delay resale transactions to purposefully avoid application of this regulation.
 - (4) "State licensed Dealers" means any person or business activity subject to licensing and regulations by laws of the State of Ohio, including but not limited to entities listed in Section 755.01(a) (6) through (8).
(Ord. 2011-21. Passed 3-15-11.)

755.02 STATE LICENSED DEALERS; REGISTRATION REQUIRED.

Any person engaged in the secondhand, scrap, pawn, precious metals or other resale businesses governed by licensing regulations of the State of Ohio shall register with the Director of Public Safety and thereby display a valid license issued by the State of Ohio and, at all times, maintain full compliance with the statutes and administrative codes of the State of Ohio, as well as all applicable regulations herein. No person shall engage in said businesses without a current, valid license issued by the State of Ohio.
(Ord. 2011-21. Passed 3-15-11.)

755.03 LICENSE APPLICATION REQUIREMENTS.

- (a) Any person engaged in business activity described in Section 755.01(a)(1) through (5) shall pay the sum of fifty dollars (\$50.00) per year for an annual license for such establishment. No fee shall be assessed to any person registered as State licensed dealer pursuant to Section 755.01(a) (6) through (8), Section 755.02 and Section 755.04 (e).
- (b) The licenses required shall not be transferable to any other person.
- (c) No license shall be issued until an application is submitted to the Director of Public Safety, which application shall, among other things, state:
 - (1) The name, address, birth date, federal employer identification and/or social security number of the applicant, owners and all on-site personnel with managerial responsibility for the resale transactions.

- (2) The name of the owner or owners of the premises wherein the business is operated.
- (3) The applicant shall, at their own expense, provide records of criminal conviction verified by private reporting agencies, for all owners and on-site personnel with managerial responsibility.
(Ord. 2011-21. Passed 3-15-11.)

755.04 ISSUANCE OF LICENSE.

(a) If the applicant for a license has filed the proper application and has paid the proper fee as specified in Section 755.03, and the Director of Public Safety is satisfied that all information requested is properly given then a license shall be issued unless the Director documents basis for denial under subsection (d).

(b) The license shall be displayed in a prominent place in the business establishment.

(c) For the purposes of this chapter, all licenses shall terminate on December 31 of each calendar year and there shall be no prorating of fees.

(d) The Director of Public Safety shall deny the license when the applicant, owners, or on-site personnel with managerial responsibility have been convicted within the last five years of any felony; or of any misdemeanor offenses of theft, receiving stolen property, building or health code violation, tax evasion, licensing regulation for business activity, offenses involving physical violence, gambling activities, controlled substances, underage sale alcoholic of beverages or tobacco to minors, or any offense involving moral turpitude.

(e) State licensed Dealers, upon registration pursuant to Section 755.02, shall be issued a certificate of registration by the Safety Director each calendar year.
(Ord. 2011-21. Passed 3-15-11.)

755.05 BOND.

Every licensee under this chapter shall execute and file a cash bond in the sum of seven hundred and fifty dollars (\$750.00), with surety to the satisfaction of the Director of Public Safety, or in the alternative post cash or certified funds in said amount, conditioned upon such licensee's conformance to the requirement of law and the ordinances of the City. The Director of Public Safety shall order forfeiture of the bond upon evidence of violation resulting in license suspension or revocation.
(Ord. 2011-21. Passed 3-15-11.)

755.06 REVOCATION OF LICENSE APPEAL.

The Director of Public Safety may suspend or revoke any license issued pursuant to this chapter for violation of any of the provisions hereof. In the event that the Director of Public Safety suspends or revokes any license, notice of suspension shall be sent by ordinary mail to the applicant's business address. The owner may, within ten days after the date of the notice of suspension, file a written appeal such suspension or revocation to the Mayor. If the Mayor upholds such suspension or revocation, the owner may appeal to the Building and Zoning Board of Appeals within ten days from the Mayor's decision. The decision of the Building and Zoning Board of Appeals shall be final.
(Ord. 2011-21. Passed 3-15-11; Ord. 2016-49. Passed 5-17-16.)

755.07 RECORD BOOKS.

Every person licensed under the provisions of this chapter shall keep a record, statement, account or book in which the purchase of any resale article is documented. Purchase shall include any sales transaction for cash or other valuable consideration, exchange, gift, barter, contribution, consignment, or listing. Said documentation shall include the following information:

- (a) A detailed description of resale article, including serial numbers thereof,
- (b) The price paid the seller therefore,
- (c) Seller's name, address and personal description,
- (d) Seller's date of birth and photograph identification.
- (e) The date and hour of the purchase and
- (f) The license number, as supplied by the seller, of any motor vehicle used at the time for transport of the seller and the resale article or either.
- (g) Cross reference information corresponding to Police Forms and "tagging" requirements of Sections 755.08 and 755.09.

Such record or statement shall be entered or written by the licensee as buyer and signed by the seller. Licensee may determine to photograph merchandise to support compliance with Section 755.07(a). Such records shall at all times during business hours be open to the inspection of any member of the Police Division of the City. Entries therein shall be consecutively numbered and shall not be erased, obliterated, altered, defaced or removed. (Ord. 2011-21. Passed 3-15-11.)

755.08 POLICE FORMS.

(a) In addition to the record book required by Section 755.07, every person licensed under the provisions of this chapter shall, in such manner and on such forms deemed suitable by said licensee, assemble and retain copies of such information as called for by said record books. Such blank form shall provide space for and require the seller's signature and the seller shall write, in his own handwriting, his name, date of birth and address. No entry on such form shall be erased, obliterated, altered or defaced.

(b) Every licensed dealer shall, on every weekday, deliver to the Chief of Police or his authorized representative, such forms as properly filled in and signed by the seller, in accordance with the provisions of this section, for all transactions of the preceding business day. Every licensee shall determine and select a commercially reasonable method of delivery and the Chief of Police may approve any prompt and effective delivery system proposed by licensee including, for example, electronic delivery of required information with licensee to retain original signature forms.

(Ord. 2011-21. Passed 3-15-11.)

755.09 TAGGING OF ARTICLES.

Every dealer licensed under the provisions of this chapter shall, at the time of making any purchase, attach a tag with a designating number thereon, legibly written in English to each resale article purchased, and shall make an entry of such number in the book provided for in Section 755.07. Alternatively, a licensee must establish reasonable commercial inventory control systems or techniques to code, catalog and otherwise identify resale articles, consistent with the record keeping and forms maintained by said licensee pursuant to 755.07 and 755.08, which may include photographs.

(Ord. 2011-21. Passed 3-15-11.)

755.10 CHANGE OR REMOVAL OF ARTICLES.

No person licensed under the provisions of this chapter shall disassemble, take apart, change the form of, sell or remove from his place of business any of the goods, resale articles or things sold to him, as set forth in Section 755.01, and as documented, tagged and otherwise reported pursuant to Sections 755.07, 755.08 and 755.09, until the expiration of fourteen days after delivery of the Police forms therefore, as required by Section 755.08.

In addition, no state licensed precious metal dealer required to be registered herein shall sell, melt, alter, deform or dispose of any article received or purchased from any seller until the expiration of fourteen (14) days after delivery of the Police forms pursuant to Section 755.08. (Ord. 2011-21. Passed 3-15-11.)

755.11 HOURS AND CIRCUMSTANCES OF SALE.

(a) No person licensed under the provisions of this chapter shall purchase or otherwise receive any resale goods, articles, or things from any person who fails or refuses to provide required information or otherwise comply with this chapter or:

- (1) Is a habitual drunkard; or
- (2) Is intoxicated or under the influence of illegal drugs at the time of the transaction; or
- (3) Is known to him to be a thief; or
- (4) Is known to him to be an associate of thieves; or
- (5) Is a receiver of stolen property; or
- (6) He has reason to suspect is a receiver of stolen property.

(b) No person shall accept listings or receive by sale, barter, exchange, gift, contribution, or otherwise, any article mentioned in this chapter from:

- (1) Any person whom he has reason to believe is under the age of eighteen years;
- (2) Any person between the hours of 11:00 p.m. and 8:00 a.m. of the following day on every day;
- (3) Any person who does not tender such sale, barter, exchange, gift, contribution, or other charitable or commercial transaction in person, unless such person has charitably donated an item in a place designated for such donations and authorized by the provisions of this section.

(c) An authorized place designated for charitable or other donations which need not be made personally under subsection (b)(4) hereof must be located entirely indoors, and must be operated in such a manner that it does not cause inconvenience, danger, or hazard to passersby or to nearby City residents. A license holder may not erect, or allow to be erected or placed on a sidewalk, in a parking area, or otherwise outside of a building, any external receptacle or structure for the purpose of collecting such donated goods, including drop boxes, mobile or immobile depository boxes, trucks, truck trailers, or other structures external to and apart from the building from which the license holder operates.

(Ord. 2011-21. Passed 3-15-11.)

755.12 EXCEPTIONS.

This chapter shall not apply to:

- (a) Persons who deal exclusively in furniture; or
- (b) Persons who deal exclusively in secondhand automobiles; or
- (c) Persons licensed by the State of Ohio as secondhand (scrap) dealers, pawnbrokers, or precious metal dealers, subject to registration herein and compliance with state licensing regulations, except as otherwise provided in Section 755.10; or
- (d) Persons who deal exclusively in secondhand books, magazines, paintings, drawings, etchings, engravings, tapestries, burlaps, or other secondhand media; or
- (e) Persons who deal exclusively in secondhand pianos, organs, or other musical instruments; or
- (f) Persons who operate a casual sale, also known as a "garage", "yard", "basement", "driveway" or "sidewalk" sale.
(Ord. 2011-21. Passed 3-15-11.)

755.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a first degree misdemeanor. An offense shall be deemed committed Each and every violation In addition the license herein provided for shall be revoked for a period of not less than six months nor more than one year.
(Ord. 2011-21. Passed 3-15-11.)