

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 647

An Ordinance repealing Multnomah County Code Chapter 6.80 and adopting Multnomah County Code Chapter 6.81 regulating occasional secondhand dealers and secondhand dealers.

Multnomah County ordains as follows:

Section 1. Findings

1. Multnomah County has regulated secondhand dealers since 1983. However, enforcement of the code has been time consuming and ineffective in controlling the activities of some dealers who exploit loopholes in the code to their own benefit.

2. The City of Portland has experienced similar problems with the enforcement of its City Code regulating secondhand dealers.

3. In 1989 a Task Force was formed comprised of representatives from the City, the County, law enforcement agencies, secondhand dealers and others.

4. The Task Force was given the charge to review appropriate methods for controlling the distribution of stolen goods in the Portland/Multnomah County area.

5. The Task Force concluded that the problems associated with the distribution of stolen property are regional and adoption of a similar code by the City of Portland and

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1 Multnomah County was essential.

2 6. The Task Force determined that over \$50 million in
3 burglary/theft crime was reported in the metropolitan area in
4 1988.

5 7. The Task Force recommended changes in the secondhand
6 dealer code to crack down on businesses and individuals who are
7 to some degree openly profiting from dealing in stolen goods.
8 The Task Force recognized that some legitimate businesses not
9 currently subject to the code will now be faced with
10 regulation. The recommended code changes attempted to mitigate
11 the regulatory burden while keeping the tools necessary to
12 control the most flagrant of those who would profit from this
13 illegal activity.

14 8. The Board of County Commissioners adopts the
15 recommendations set out in the Final Report of the Task Force
16 on Controlling Distribution of Stolen Property dated
17 February 12, 1990, and incorporates it by reference as attached
18 as Exhibit A.

19
20 Section 2. Repeal of Multnomah County Code Chapter 6.80.

21 Multnomah County Code Chapter 6.80 is hereby repealed in
22 its entirety.

23
24 Section 3. Adoption of Multnomah County Code Chapter 6.81.

25 Multnomah County Code Chapter 6.81 is adopted to read as
26 follows:

1
2 6.81.005 Title and Scope.

3 This Chapter shall be known as the Multnomah County
4 Occasional Secondhand Dealers and Secondhand Dealers Ordinance,
5 hereinafter "this Chapter".

6
7 6.81.010 Purpose.

8 The Board's purpose in adopting this Chapter is to strictly
9 regulate certain business activities that present an
10 extraordinary risk of being used to conceal criminal behavior,
11 including the theft of property. The Board finds that this
12 risk is present despite the best efforts of legitimate
13 businesses, because these businesses process large volumes of
14 goods and materials that are frequently the subject of theft.
15 This Chapter is intended to reduce this type of criminal
16 activity by providing more timely police awareness of such
17 property transactions, and by regulating the conduct of persons
18 engaged in this business activity. The Board finds that these
19 regulations are necessary and the need for the regulations
20 outweighs any anti-competitive effect that may result from
21 their adoption.

22
23 6.81.020 Definitions.

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

26 (A) "Acceptable identification" means either a valid

1 driver's license, or two pieces of identification issued by a
2 government agency, one of which shall include a physical
3 description and a photograph of the person from whom the
4 secondhand goods are being purchased.

5 (B) "Sheriff" means the Sheriff of Multnomah County, or
6 his or her designee.

7 (C) "Criminal arrests or convictions" means any offense
8 defined by the Statutes of the State of Oregon or ordinances of
9 Multnomah County, unless otherwise specified. Any arrest or
10 conviction for conduct other than that denoted by the Statutes
11 of the State of Oregon or Ordinances of Multnomah County, as
12 specified herein, shall be considered to be equivalent to one
13 of such offenses if the elements of such offense for which the
14 person was arrested or convicted would have constituted one of
15 the above offenses under the applicable Oregon Statutes or
16 Multnomah County ordinance provisions.

17 (D) "Investment purposes" means the purchase of personal
18 property by businesses, and the retention of that property in
19 the same form as purchased, for resale to persons who are
20 purchasing the property primarily as an investment.

21 (E) "Manager" means the Chief Civil Deputy of the
22 Multnomah County Sheriff's Office, or his or her designee. The
23 Manager has the authority to contract for personal services for
24 the performance of his or her duties with a public or a private
25 contractor.

26 (F) "Occasional secondhand dealer" means any person:

1 (1) Who engages in, conducts, manages or carries on a
2 business as defined by Multnomah County Code 5.70.010(B); and

3 (2) Who purchases or offers for sale no more than 50
4 items of regulated property in any one year period; and

5 (3) Who purchases regulated property at or from
6 premises located within Multnomah County, or on behalf of such
7 a business regardless of where the purchase occurs.

8 (G) "Person" means any real person, or any partnership,
9 association, organization, or corporation.

10 (H) "Purchase" means to take or transfer any interest in
11 personal property in a voluntary transaction, including but not
12 limited to: sales, consignments, leases, trade-ins, loans or
13 any transfer involving a condition of selling the property back
14 at a stipulated price in the future. "Purchase" does not
15 include any loans made in compliance with state laws by pawn
16 brokers licensed by the State of Oregon.

17 (I) "Secondhand dealer" means any person:

18 (1) Who engages in, conducts, manages or carries on a
19 business as defined by Multnomah County Code 5.70.010(B); and

20 (2) Who purchases or offers for sale 51 or more items
21 of regulated property in any one year period; and

22 (3) Who purchases regulated property at or from
23 business premises located within Multnomah County, or on behalf
24 of such a business regardless of where the purchase occurs.

25 (J) "Regulated property" means any of the following
26 property which is used or secondhand:

1 (1) Precious metals including but not limited to: any
2 metal that is valued for its character, rarity, beauty or
3 quality, including gold, silver, platinum or any other metals,
4 whether as a separate item or in combination as a piece of
5 jewelry.

6 (2) Precious gems including but not limited to: any
7 gem that is valued for its character, rarity, beauty or
8 quality, including diamonds, rubies, emeralds, sapphires or
9 pearls, or any other such precious or semi-precious gems or
10 stones, whether as a separate item or in combination as a piece
11 of jewelry.

12 (3) Watches and jewelry containing precious metals or
13 precious gems including but not limited to: rings, necklaces,
14 pendants, earrings, brooches, chains, pocket watches, wrist
15 watches, or stop watches.

16 (4) Sterling silver including but not limited to:
17 flatware, candleholders, coffee and tea sets, or ornamental
18 objects.

19 (5) Audio equipment including but not limited to:
20 tape players, tape decks or players, compact/digital disc
21 players, sound metering devices, tuners, amplifiers, speakers,
22 transceivers, equalizers, receivers, phonographs, turntables,
23 stereos, radios, clock radios, car stereos, car speakers, radar
24 detectors, or citizen band radios/transceivers.

25 (6) Video equipment including but not limited to:
26 color televisions, black and white televisions, videotape or

1 videodisc recorders, videotape or videodisc players, video
2 cameras, or video monitors.

3 (7) Photographic and optical equipment including but
4 not limited to: cameras, camera lenses, camera filters, camera
5 motor drives, light meters, flash equipment, movie projectors,
6 slide projectors, photography processing equipment, photography
7 enlarging equipment, binoculars, telescopes, opera glasses,
8 microscopes, surveying equipment, rifle scopes, spotting
9 scopes, or electronic sighting equipment.

10 (8) Electrical office equipment including but not
11 limited to: telefax machines, laser printers, copiers,
12 duplicators, typewriters, calculators, cash registers,
13 transcribers, dictaphones, computers, home computers, modems,
14 monitors, or any computer equipment or accessories.

15 (9) Power yard and garden tools including but not
16 limited to: garden tractors, lawn mowers, rototillers, lawn
17 sweepers, weed or brush cutters, edgers, trimmers, or blowers.

18 (10) Power equipment and tools including but not
19 limited to: air hammers, air tools, nail guns, power staplers,
20 power saws, power sanders, chainsaws, power planers, power
21 drills, routers, lathes, joiners, shop vacuums, paint sprayers
22 and accessory equipment, generators, air compressors, pressure
23 washers, or logging equipment.

24 (11) Automotive hand tools including but not limited
25 to: wrench sets, socket sets, screw driver sets, pliers, vise
26 grips, tool boxes, auto body hammers, jacks, or timing lights.

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1 (12) Telephones or telephone equipment limited to
2 office telephones, portable home telephones, mobile telephones,
3 cellular telephones, or answering machines.

4 (13) Musical instruments including but not limited to:
5 pianos, organs, guitars, violins, cellos, trumpets, trombones,
6 saxophones, flutes, drums, percussion instruments, or
7 electronic synthesizers.

8 (14) Firearms including but not limited to: rifles,
9 shotguns, hand guns, revolvers, pellet guns, or BB guns.

10 (15) Sporting equipment limited to bicycles, golf
11 clubs, skis, and ski boots.

12 (16) Outboard motors, props, and outdrives.

13 (17) Regulated property does not include any of the
14 following property:

15 (a) Vehicles required to be registered with the
16 Oregon Motor Vehicles Division;

17 (b) Boats required to be certified by the Oregon
18 Marine Board;

19 (c) Books;

20 (d) Glassware;

21 (e) Furniture;

22 (f) Refrigerators, stoves, washers, dryers and
23 other similar major household appliances.

24 (g) Property which is purchased by a bona fide
25 business for investment purposes; limited to:

26 (1) Gold bullion bars (0.995 fine or
better);

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1 (2) Silver bullion bars (0.995 fine or
2 better);

3 (3) All tokens, coins, or money, whether
4 commemorative or an actual medium of exchange adopted by a
5 domestic or foreign government as part of its currency; or

6 (4) Postage stamps, stamp collections and
7 philatelic items.

8
9 6.81.030 Permit Required.

10 (A) No person shall engage in, conduct or carry on an
11 occasional secondhand dealer business or a secondhand dealer
12 business in Multnomah County without a valid occasional
13 secondhand dealer permit or a valid secondhand dealer permit
14 issued by the Manager.

15 (B) Upon purchasing 50 items of regulated property during
16 any one year period, an occasional secondhand dealer shall
17 apply for and obtain a secondhand dealer permit before
18 purchasing any more items of regulated property.

19 (C) Any person who advertises or otherwise holds
20 themselves out to be purchasing regulated property within
21 Multnomah County shall be presumed to be operating a business
22 subject to the terms of Chapter 6.81.

23
24 6.81.040 Application for Permit.

25 (A) An application for an occasional secondhand dealer's
26 permit or a secondhand dealer's permit shall set forth the

1 following information:

2 (1) The name, address, telephone number, birth date
3 and principal occupation of the applicant and any other person
4 who will be directly engaged or employed in the management or
5 operation of the business or the proposed business;

6 (2) The name, address and telephone number of the
7 business or proposed business and a description of the exact
8 nature of the business to be operated;

9 (3) Written proof that the applicant is at least 18
10 years of age;

11 (4) The applicant's business occupation or employment
12 for the 3 years immediately preceding the date of application;

13 (5) The business permit history of the applicant in
14 operating a business identical to or similar to those regulated
15 by this Chapter.

16 (6) A brief summary of the applicant's business
17 history in Multnomah County or in any other city, county or
18 state including:

19 (a) the business license or permit history of
20 the applicant; and

21 (b) whether the applicant has ever had any
22 license or permit revoked or suspended, the reasons therefor,
23 and the business activity or occupation of the applicant
24 subsequent to the suspension or revocation.

25 (7) If the business or proposed business is the
26 undertaking of a sole proprietorship, partnership or

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1 corporation:

2 (a) If a partnership, the application shall set
3 forth the names, birth dates, addresses, telephone numbers,
4 principal occupations, along with all other information
5 required of any individual applicant of each partner, whether
6 general, limited, or silent, and the respective ownership
7 shares owned by each.

8 (b) If a corporation, the application shall set
9 forth the corporate name, copies of the articles of
10 incorporation and the corporate bylaws, and the names,
11 addresses, birth dates, telephone numbers, and principal
12 occupations, along with all other information required of any
13 individual applicant, of every officer, director and
14 shareholder (owning more than five percent of the outstanding
15 shares) and the number of shares held by each;

16 (8) Any criminal arrests or convictions relating to
17 fraud or theft of each applicant and all natural persons
18 enumerated in paragraphs 1 through 7 of this Section; and

19 (9) Any other information which the Manager may
20 reasonably feel is necessary to accomplish the goals of this
21 Chapter.

22 (B) The personal and business information contained in the
23 application forms required pursuant to Section 6.81 040 A shall
24 be treated as confidential and exempted from disclosure to the
25 maximum extent permitted by law.

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1 6.81.050 Issuance and Renewal of Permit.

2 (A) Upon the filing of an application for an occasional
3 secondhand dealer or secondhand dealer permit and payment of
4 the required fee, the Sheriff shall conduct an investigation of
5 the applicant. The Manager shall issue such permit within 90
6 days of receiving a complete application if no cause for denial
7 as noted herein exists.

8 (B) The Manager shall deny an application for an
9 occasional secondhand dealer's permit or a secondhand dealer's
10 permit if:

11 (1) The applicant, or any other person who will be
12 directly engaged in the management or operation of the
13 business, or any person who owns a five percent or more
14 interest in the business has previously owned or operated a
15 business regulated by this Chapter; and

16 (a) The license or permit for the business has
17 been revoked for cause which would be grounds for revocation
18 pursuant to this Chapter; or

19 (b) The business has been found to constitute a
20 public nuisance and abatement has been ordered; or,

21 (c) Any of the persons involved in the business
22 has been convicted of any criminal offense noted in Section
23 6.81.040 (A)8. or Section 6.81.120; or

24 (2) The operation as proposed by the applicant would
25 not comply with all applicable requirements of the Multnomah
26 County Code including but not limited to: the building, health,

1 planning, zoning and fire codes of the County.

2 (3) Any statement in the application is found to be
3 false or any required information is withheld.

4 (4) Any employee is found to have committed any
5 criminal offense relating to fraud or theft and the offense
6 either occurred on the premises of the business subject to the
7 permit or was connected in a time and manner with the operation
8 of the business so that the person(s) in charge of such
9 business knew, or should reasonably have known, that such
10 violation(s) would occur.

11 (5) Evidence exists to support a finding that either:

12 (a) The location of the business for which the
13 application has been filed has a history of violations of the
14 provisions of this Chapter; or,

15 (b) A statistically significant record exists of
16 criminal offenses relating to fraud or theft in the area
17 located within 500 feet of the premises.

18 (6) The operation does not comply with applicable
19 Federal or State licensing requirements.

20 (C) Notwithstanding Section 6.81.050 (B), the Manager may
21 grant a permit with the concurrence of the Sheriff despite the
22 presence of one or more of the enumerated factors if the
23 applicant establishes to the Manager's satisfaction that:

24 (1) The behavior evidenced by such factor is not
25 likely to recur,

26 (2) The behavior evidenced by such factor is remote

1 in time; and

2 (3) The behavior evidenced by such factor occurred
3 under circumstances which diminish the seriousness of the
4 factor as it relates to the purpose of Chapter 6.81.

5 (D) Occasional secondhand dealer permits and secondhand
6 dealer permits shall be for a term of one year and shall expire
7 on the anniversary of their issuance. The permits shall be
8 nontransferable and shall be valid only for a single location.
9 When the business location is to be changed, the permit holder
10 shall provide the address of the new location in writing to the
11 Manager for approval at least 10 days prior to such change.

12 (E) All occasional secondhand and secondhand dealer
13 permits shall be displayed on the business premises in a manner
14 readily visible to patrons.

15 (F) (1) The Manager, upon denial of an application for an
16 occasional secondhand dealer's permit or a secondhand dealer's
17 permit, shall give the applicant written notice of the denial
18 by causing notice to be served upon the applicant at the
19 business or residence address listed on the application.

20 (2) Service of the notice shall be accomplished
21 either by mailing the notice by certified mail, return receipt
22 requested, or at the option of the Manager, by personal service
23 in the same manner as a summons served in an action at law.

24 (3) Refusal of the service by the person whose permit
25 is denied shall be prima facie evidence of receipt of the
26 notice. Service of notice upon the person in charge of a

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1 business during its hours of operation shall constitute prima
2 facie evidence of notice to the person holding the permit to
3 operate the business.

4 (4) The denial shall be effective and final the date
5 the notice is received by applicant as evidenced by the Return
6 Receipt or the Return of Service.

7 (G) Denial of a permit may be appealed to the Board of
8 County Commissioners by filing written notice of an appeal with
9 the Clerk of the Board within 10 days of the date of denial, in
10 accordance with Section 6.81.150.

11
12 6.81.060 Permit Fees.

13 (A) Every person engaged in, conducting or carrying on an
14 occasional secondhand dealer business shall:

15 (1) For an occasional secondhand dealer's permit,
16 file an application within 60 days of the effective date of
17 this Ordinance with the Manager and pay a nonrefundable fee of
18 \$25.00.

19 (2) For renewal of an occasional secondhand dealer's
20 permit, shall pay a nonrefundable fee of \$25.00.

21 (B) Every person engaged in, conducting or carrying on a
22 secondhand dealer's business shall:

23 (1) File an application within 60 days of the
24 effective date of this Ordinance with the Manager and pay a
25 nonrefundable fee of \$150.00. The Manager shall allow
26 occasional secondhand dealer application fee against the charge
for the secondhand dealer application fee.

(2) For renewal of a secondhand dealer's permit, pay a nonrefundable fee of \$75.00.

6.81.070 Subsequent Locations.

(A) The holder of a valid occasional secondhand dealer's permit or a secondhand dealer's permit shall file an application for a permit for an additional location with the Manager and shall not be required to pay any fee provided the information required for the subsequent location is identical to that provided in the application for the prior location with the exception of that required by Section 6.81.040(A)(6).

(B) Permits issued for subsequent locations shall be subject to all the requirements of this Chapter, and the term of any permit issued for a subsequent location shall expire on the same date as the initial permit.

6.81.080 Seller Identification; Purchase Report Forms.

(A) The Manager shall provide all occasional secondhand dealers and secondhand dealers with purchase report forms at cost. The Sheriff may specify the size, shape and color of the purchase report form. The Sheriff may require the purchase report forms to provide any information relating to the regulations of this Chapter. Occasional secondhand dealers and secondhand dealers may utilize their own forms, in lieu of those supplied by the Sheriff, if such forms have been approved by the Sheriff.

(B) (1) When purchasing regulated property, occasional secondhand dealers and secondhand dealers shall obtain acceptable identification and a current residential address from the seller.

(2) All occasional secondhand dealers and secondhand dealers shall write a description of the purchased property upon a purchase report form at the time of purchasing any item of regulated property. The description of the purchased property shall be as called for by the purchase report form.

All occasional secondhand dealers and secondhand dealers shall fill in all of the blank spaces on the purchase report forms with the data required by the form and require the person selling any regulated property to sign his or her name on the form. All purchase report forms shall be filled out in clearly legible, printed English.

(3) The information required to be furnished on purchase report forms is to assist in the investigation of the theft of property. The information is of a confidential nature and related to the personal privacy of persons doing business with the dealer, as well as certain trade secrets and practices of occasional secondhand dealers and secondhand dealers. The information shall be treated as confidential and exempt from disclosure to the maximum extent possible under applicable laws.

(C) All occasional secondhand dealers and secondhand dealers shall mail or deliver to the Sheriff at the close of each business day the original and second copy of all report

forms describing articles purchased that business day.

(D) The third copy of all completed report forms shall be retained by occasional secondhand dealers and secondhand dealers for a period of not less than 1 year from the date of purchase on their business premises.

6.81.090 Regulated Property Sale Limitations.

(A) No regulated property purchased by any occasional secondhand dealer or secondhand dealer shall be sold for a period of 15 full days after the date of purchase. The dealer shall maintain the purchased property in substantially the same form as purchased and shall not commingle the property to preclude identification during this 15-day holding period. The purchased property shall be located on the business premises during normal business hours during this holding period so that it can be inspected as provided in Section 6.81.110.

Notwithstanding this requirement, the Manager may authorize the sale or transfer of an item of purchased regulated property before the expiration of this period, in cases in which the dealers shows that extreme financial hardship will result from holding such property for the 15-day period.

(B) The Sheriff may provide written notice, upon reasonable belief that the purchased property is the subject of theft, to any occasional secondhand dealer or secondhand dealer not to dispose of any specifically described property purchased. The dealer shall retain the property in

1 substantially the same form as purchased. The dealer shall not
2 sell, exchange, dismantle or otherwise dispose of the property
3 for a period of time, as determined by the Sheriff, not to
4 exceed 180 days from the date of purchase.

5 (C) If an occasional secondhand dealer or secondhand
6 dealer purchases regulated property with serial numbers,
7 personalized inscriptions or initials, or other identifying
8 marks which are or have been altered, obliterated, removed, or
9 otherwise rendered illegible, the occasional secondhand dealer
10 or secondhand dealer shall hold such property on the business
11 premises for a period of 90 full days after purchase. The
12 dealer shall maintain the purchased regulated property in
13 substantially the same form as purchased and shall not
14 commingle the property so as to preclude identification during
15 this 90-day holding period. Such property shall be located on
16 the business premises during normal business hours during this
17 holding period so that it can be inspected, as provided in
18 Section 6.81.110.

19
20 **6.81.100 Tagging Regulated Property for Identification.**

21 Any occasional secondhand dealer or secondhand dealer
22 purchasing any regulated property shall affix to property,
23 during the holding period required by 6.81.090, a tag upon
24 which shall be written a number in legible characters. The
25 number shall correspond to the number on the purchase report
26 forms required by Section 6.81.080.

1 **6.81.110 Inspection of Property and Records.**

2 Upon presentation of official identification, the Multnomah
3 County Sheriff's Office or the Manager may enter onto the
4 business premises of any person with an occasional secondhand
5 dealer or secondhand dealer permit to ensure compliance with
6 the provisions of Chapter 6.81. The inspection shall be for
7 the limited purpose of inspecting any regulated property
8 purchased by the dealer, held by the dealer pursuant to Section
9 6.81.090, or the records incident thereto. Any such inspection
10 shall only be authorized to occur during normal business hours.

11
12 **6.81.120 Prohibited Acts.**

13 (A) It shall be unlawful for any person acting as owner,
14 manager, agent or employee of a business regulated by Chapter
15 6.81:

16 (1) To engage in, conduct or carry on the operation
17 of any occasional secondhand dealer business or secondhand
18 dealer business within Multnomah County, unless a permit for
19 such business has first been obtained from the Manager;

20 (2) To fail to obtain acceptable identification from
21 the person selling any regulated property;

22 (3) To fail to have the person selling any regulated
23 property sign the purchase report form describing the article
24 purchased;

25 (4) To fail to retain on the business premises a copy
26 of the purchase report form describing the purchased regulated

1 property for a period of one year from the date of purchase;

2 (5) To fail to mail or deliver to the Sheriff at the
3 close of each business day the original and second copy of all
4 purchase report forms describing regulated property purchased
5 during that business day;

6 (6) To fail to include on the purchase report form
7 all readily available information required by the form;

8 (7) To fail to withhold from sale any regulated
9 property for the required holding period after purchase;

10 (8) To fail, after purchasing regulated property, to
11 retain during normal business hours on the business premises
12 for the required holding period after its purchase;

13 (9) To fail to allow inspection by the Manager or
14 Sheriff of any regulated property being retained pursuant to
15 Chapter 6.81;

16 (10) To fail to allow inspection by the Manager of any
17 records required by Chapter 6.81;

18 (11) To fail to have affixed to any purchased
19 regulated property, during the required holding period, a tag
20 upon which is written a number in legible characters which
21 corresponds to the number on the purchase record form required
22 by Chapter 6.81; or

23 (12) To continue activities as an occasional
24 secondhand dealer or secondhand dealer after suspension or
25 revocation of a permit.

26 (B) Any violation of any prohibited act listed in Section

1 6.81.120 (A) is punishable, upon conviction, by a fine of not
2 more than \$500.00 and a jail sentence up to one year.

3
4 6.81.130 Civil Penalties.

5 Notwithstanding the provisions of Section 6.81.120, the
6 Manager may seek civil penalties for violations of Chapter 6.81
7 in accordance with the following schedule:

8 (A) To engage in, conduct or carry on the operation of any
9 occasional secondhand dealer business or secondhand dealer
10 business within Multnomah County, unless a permit for such
11 business has first been obtained from the Manager. The penalty
12 shall be \$500.00 per day.

13 (B) To fail to obtain acceptable identification from the
14 person selling regulated property: The penalty shall be
15 \$100.00 per occurrence.

16 (C) To fail to have the person selling any regulated
17 property sign the purchase report form describing the purchased
18 property: The penalty shall be \$100.00 per occurrence.

19 (D) To fail to retain on the permitted business premises a
20 copy of the purchase report form describing the purchased
21 regulated property for a period of one year from the date of
22 purchase: The penalty shall be \$100.00 per occurrence.

23 (E) To fail to mail or deliver to the Sheriff at the close
24 of each business day the original and second copy of all
25 purchase report forms, describing regulated property purchased
26 during that business day: The penalty shall be \$100.00 per

1 occurrence.

2 (F) To fail to include on the purchase report form all
3 readily available information as required by the form: The
4 penalty shall be \$100.00 per occurrence.

5 (G) To fail to hold from sale any purchased regulated
6 property for the required holding period after purchase: The
7 penalty shall be \$500.00 per occurrence.

8 (H) Having purchased any regulated property, to fail to
9 retain the property during normal business hours on the
10 permitted business premises for the required holding period
11 after purchase: The penalty shall be \$500 per occurrence.

12 (I) To fail to allow inspection by the Sheriff or the
13 Manager of any regulated property being retained pursuant to
14 Chapter 6.81: The penalty shall be \$500.00 per occurrence.

15 (J) To fail to allow inspection by the Sheriff or the
16 Manager of any records required by Chapter 6.81: The penalty
17 shall be \$500.00 per occurrence.

18 (K) To fail to have affixed to any purchased regulated
19 property, during the required holding period, a tag upon which
20 is written a number in legible characters which corresponds to
21 the numbers on the purchase report form required by Chapter
22 6.81: The penalty shall be \$100.00 per occurrence.

23 (L) To fail to allow inspection by the Sheriff or the
24 Manager of any business premises regulated by this Chapter:
25 The penalty shall be \$500.00 per occurrence.

26 (M) To continue activities as an occasional secondhand

1 dealer or secondhand dealer after suspension or revocation of a
2 permit: The penalty shall be \$500.00 per day.

3 (N) For any other violation of the terms or provisions of
4 Chapter 6.81 not otherwise set forth herein: The penalty shall
5 be \$500 per day or occurrence.

6
7 **6.81.140 Revocation or Suspension of Permit.**

8 (A) The Manager shall revoke or suspend any permit issued
9 pursuant to this Chapter:

10 (1) Upon the recommendation of the Sheriff:

11 (a) For any cause which would be grounds for
12 denial of a permit;

13 (b) Where investigation reveals that any
14 violation of the provisions of Chapter 6.81 or any offense
15 noted in Section 6.81.120 has been committed by any person and
16 such offense is connected in time and manner with the operation
17 of the business so that the person(s) in charge of such
18 establishment knew, or should reasonably have known, that such
19 violations have been permitted to occur on the premises by the
20 permit holder or any employee; or,

21 (2) A lawful inspection has been refused; or,

22 (3) Upon a finding by the Manager that the business
23 activities cause significant litter, noise, vandalism,
24 vehicular or pedestrian traffic congestion or other locational
25 problems in the area around such premises; or,

26 (4) If payment of civil penalties has not been

1 received by the Manager within ten (10) working days after the
2 penalty becomes final; or,

3 (5) If any statement contained in the application for
4 the permit is found to have been false; or

5 (6) If any occasional secondhand dealer business or
6 secondhand dealer business fails to meet the Federal or State
7 licensing requirements.

8 (B) (1) The Manager, upon revocation or suspension of any
9 permit issued pursuant to this Chapter, shall give the
10 permittee written notice of such revocation or suspension by
11 causing notice to be served upon the permit holder at the
12 business or residence address listed on the permit application.

13 (2) Service of the notice shall be accomplished
14 either by mailing the notice by certified mail, return receipt
15 requested, or at the option of the Manager, by personal service
16 in the same manner as a summons served in an action at law.

17 (3) Refusal of the service by the person whose permit
18 is suspended or revoked shall be prima facie evidence of
19 receipt of the notice. Service of notice upon the person in
20 charge of a business during its hours of operation shall
21 constitute prima facie evidence of notice to the person holding
22 the permit to operate the business.

23 (C) Suspension or revocation shall be effective and final
24 10 days after the giving of such notice unless such suspension
25 or revocation is appealed, in accordance with Section 6.81.150.

26

Page

1 6.81.150 Appeals.

2 (A) (1) The filing of a notice of appeal of revocation or
3 suspension of a permit, or of a civil penalty imposed by the
4 Manager, under this Chapter shall stay the effective date of
5 the action until the appeal is determined by the Board.

6 (2) The notice of appeal shall state the name and
7 address of the appellant to which all notices required herein
8 may be mailed. The notice shall also indicate the reasons why
9 the action was incorrect and what the correct determination
10 should be.

11 (3) The appellant shall be deemed to have waived the
12 right to object and the appeal shall be dismissed if:

13 (a) The notice of appeal is not filed within the
14 specified time; or,

15 (b) The notice of appeal does not otherwise
16 conform to these requirements.

17 (B) (1) Upon receipt of notice of the appeal, the Clerk
18 of the Board shall give notice of the filing of the appeal to
19 the Manager, who shall file a report with the Board containing
20 the reasons for such action. Upon receiving the Manager's
21 report, the Clerk of the Board shall set a date for a Board
22 hearing of the appeal and shall notify the appellant of the
23 hearing date.

24 (2) At the Board hearing, the Manager shall report to
25 the Board the Manager's reasons for the action. The appellant
26

shall have the opportunity to present evidence and oral argument to the Board and to file a written statement. A record shall be made of this hearing. At the conclusion of the hearing, the Board shall determine the appeal and direct that written findings be prepared. If the Board denies the appeal of the denial of the application, the revocation, suspension, or civil penalty, the action shall be effective upon the Board's signing the findings. The decision of the Board shall be final.

6.81.160 Maintenance of Regulated Business Activity in Violation Declared a Nuisance; Abatement.

Any business maintained in violation of the provisions of this Chapter is hereby declared to be a public nuisance. The County Counsel is authorized to bring any action or suit to abate such nuisance by seeking injunctive or other appropriate relief to:

- (A) Cease all unlawful activities; or
- (B) Close the unlawful business establishment; or
- (C) Return property obtained through unlawful activities to the rightful owners; or
- (D) Seek payment of civil penalties assessed by the Manager; or
- (E) Seek such other relief as may be appropriate.

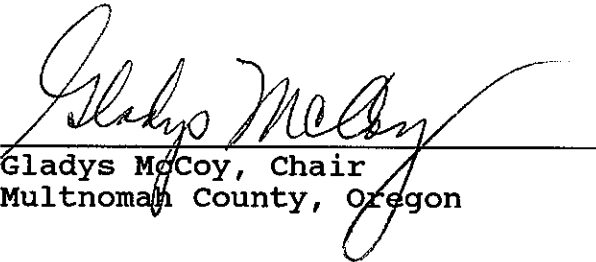
Section 4. Adoption of Ordinance.

This Ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, shall take effect on the thirtieth (30th) day after its adoption, pursuant to Section 5.50 of the Charter of Multnomah County.


ADOPTED this 22ND day of MARCH,
1990, being the date of its 2ND reading before the Board
of County Commissioners of Multnomah County.

(SEAL)

By


Gladys McCoy, Chair
Multnomah County, Oregon

REVIEWED:


Laurence Kressel, County Counsel
of Multnomah County, Oregon

03/14/90:3

6ATTY.36/ac

Exhibit A

February 12, 1990

FINAL REPORT

TASK FORCE ON CONTROLLING DISTRIBUTION OF STOLEN PROPERTY

INTRODUCTION

In May 1989 Portland City Commissioner Dick Bogle, in cooperation with Multnomah County Commissioner Gretchen Kafoury, appointed a Task Force to review appropriate methods for controlling the distribution of stolen goods in the Portland/Multnomah County area. The Task Force was composed of City and County law enforcement and regulatory personnel and industry representatives. (See Attachment #1)

The Task Force met regularly throughout the summer and fall and concluded there was no simple solution to this problem. Real success will come only when the underlying problems of increased drug use, the shortage of jail space and treatment programs, and the general overload of the criminal justice system are effectively addressed.

The Task Force therefore focused on steps that could be taken locally to make it more difficult for people to easily profit from dealing in stolen goods. It was immediately apparent that solutions that would have a positive impact on controlling the problem would require expansion of the secondhand dealer code. Moreover, expanding the scope of the code would necessarily mean casting a wider net which may include more legitimate businesses. The task of effectively regulating illegal activities while minimizing the regulatory impact on legitimate businesses became the central challenge facing the Task Force.

On November 7, 1989 the Task Force held a public hearing to consider testimony from the public regarding proposed amendments to the City's Secondhand Dealer Code. A vast majority of the testimony opposed additional regulation because of the burden it would place on legitimate businesses. Following the hearing the Task Force modified its proposals to address some of the concerns raised, however not all concerns could be resolved. The Task Force felt the need to expand the code outweighed the minimal regulatory burden it would impose on a few businesses.

The following specific actions are recommended:

1. Expand Portland's Secondhand Dealer Code to cover the purchase or sale of all regulated items. Currently the code only covers the purchase of regulated items at the business location.
2. Reduce the list of regulated items to include only the types of property that are commonly stolen and resold in Portland.

3. Create a list of specific exclusions in the code for items not subject to regulation.
4. Create a new permit for "occasional dealers" who only deal in regulated items on a limited basis.
5. Strongly recommend Multnomah County adopt a secondhand dealer code similar to Portland's. Encourage other cities and counties in the region to follow suit.
6. Develop a regulatory program for flea markets and swap meets.
7. Encourage more active involvement of the private sector in addressing the problem. Increased cooperation with law enforcement agencies and support for public education programs have potential for real dividends.

BACKGROUND

The Task Force began its work by discussing the nature and extent of the problem. No extensive research was undertaken but rather the Task Force relied on the knowledge and experience of its members to outline the problem. The Task Force avoided trying to solve the underlying problems of theft and burglary and instead focused on how to stem the flow of stolen goods in the community. A summary of background issues is attached. (See Attachment #2)

REGULATION OF SECONDHAND DEALERS

The City of Portland has regulated secondhand dealers since April 1981 with major code amendments in August 1986 and April 1989. However, enforcement of the code has been time consuming and ineffective in controlling the activities of some dealers who seem to be exploiting loopholes in the code to their own benefit. The Task Force attempted to address these weaknesses while limiting the regulatory burden on the business community.

The major elements of a proposed code amendment that would address the problems identified by the Task Force are listed in Attachment #3.

The Task Force also concluded the problems associated with the distribution of stolen property are regional and that adoption of a similar code by Multnomah County was essential. Currently there are a number of secondhand dealers who have located just outside the City in order to avoid regulation. Adoption of the code by Multnomah County would deter these operations and would also address the issue of unfair competition for regulated businesses in Portland.

Further, the Task Force recommends other cities and counties in the metropolitan area be encouraged to adopt similar regulations. Experience has shown that many of these business operations will simply move over the line to the next unregulated area which will create problems for other jurisdictions. Tracking and recovery of stolen property would be vastly improved if regional regulation was adopted. Responsible regulation by the State of Oregon should be encouraged and supported.

REGULATION OF FLEA MARKETS AND SWAP MEETS

The Task Force concluded that flea markets and swap meets were commonly used as outlets for stolen property and should be regulated. The Task Force recommends the Police and License Bureaus develop regulations to address this problem in line with the following proposal.

In studying potential regulation, the Task Force reviewed the California State Code as a model. This model places a large part of the administrative burden on the market owner/operator who would be required to obtain a permit. Rules would be established requiring the market operator/owner to:

1. Maintain a daily list of all vendors and retain on the permitted business premises a copy of the list for one year. Provide copies of the list to the Police or License Bureaus as required.
2. Obtain, maintain and provide as requested by Police or License Bureau personnel, information from each vendor, on a form approved by the City, to include the vendor's name, address, drivers license number, a general description of items for sale including serial numbers, and a description of the vehicle used to transport the property offered for sale.
3. Disallow any vendor, required to have a secondhand dealer permit, from buying or selling property on the permitted premises unless the vendor has obtained a secondhand dealer permit and provided a copy to the market owner/operator.
4. Allow inspection by Police or License Bureau personnel of all records, merchandise or premises regulated by the City.

Rules would be established requiring each vendor to:

1. Sign a form acknowledging that flea market rules have been received and understood.
2. Allow inspection by Police or License Bureau personnel of all records, including but not limited to invoices and receipts, and merchandise offered for sale.

3. Provide information to the the market owner/operator as required for compliance with adopted regulations.
4. Apply for and obtain a valid secondhand dealer permit if vendor of regulated property has operated or plans to operate for more than five days in any calendar year at any flea market located within the city limits of Portland and provide a copy of the permit to the owner/operator.

PUBLIC/PRIVATE SECTOR COOPERATION

The problems of theft and burglary have a dramatic affect on the business community as well as private citizens. Shoplifting and theft from a business are obvious examples, but businesses also suffer in terms of higher insurance premiums and increased security costs. Some recent studies show more money now being spent on private security measures in the country than on public law enforcement. Improvement in the working relationship between these private and public efforts is strongly encouraged.

The Task Force felt organized discussions involving law enforcement agencies, private security firms, the insurance industry, retailers and representatives of the general business community would lead to positive results. Opportunities for cooperative effort included but were not limited to the following:

1. Better sharing of information on property losses, suspects and methods of distribution.
2. Increased cooperation in tracking and apprehending career criminals engaged in property crimes.
3. Funding and development of public education programs aimed at theft prevention and at closing down the market for stolen goods.
4. Increased understanding and support for attacking the underlying causes of property crimes including drug abuse and the lack of corrections and treatment programs.

The Task Force did not attempt to establish a specific proposal for creating this partnership but strongly supports such a discussion. Community Policing proposals now under review may well be the best framework for obtaining private sector involvement.

SUMMARY

In 1988 over \$50 million in burglary/theft crime was reported in the Portland metropolitan area. This property was resold into a very active black market in stolen goods that current enforcement efforts have failed to curtail. Until the underlying problems of drug abuse, the shortage of corrections and

treatment programs and the overload of the criminal justice are addressed, the problem will continue and every business, government agency and individual citizen will continue to suffer additional costs, both economic and social.

However, steps can be taken to crack down on businesses and individuals who are to some degree openly profiting from dealing in stolen goods. Expansion of the Secondhand Dealer Code is essential in curtailing these operations.

Regrettably, some legitimate businesses not currently subject to the Code will now be faced with regulation. The Task Force attempted to mitigate the regulatory burden while keeping the tools necessary to combat the problem. Other efforts especially involving public/private partnerships should be immediately pursued.

The Task Force urges adoption of these recommendations as minimum steps to control the most flagrant of those who would profit from this illegal activity.

#

TASK FORCE MEMBERS

Dennis Nelson, Manager
License Bureau
City of Portland

Norm Monroe, Staff Assistant
Office of Commissioner Gladys McCoy
Multnomah County

Wayne Pearson, Deputy District Attorney
District Attorney's Office
Multnomah County

Sandra Duffy
Multnomah County Counsel
Multnomah County

Margaret Bax, Staff Assistant
Office of Commissioner Gretchen Kafoury
Multnomah County

Lt. Clyde (Mike) Stites
Detective Division
Sheriff's Office
Multnomah County

Jody Tompkins
Happy's
Secondhand Dealer

Benjamin Walters, Deputy City Attorney
City Attorney's Office
City of Portland

Lee Cook/Beverly McEnaney
Security Supervisor
Fred Meyer Security

Earl Oller
H & B Loan
Pawn Shop Operator

Lt. Pat Nelson/Sgt. Tom Seipert
Detective Division
Portland Police Bureau
City of Portland

Sgt. Frank Herlinger/Det. Brian VanOsdol
State Police, Portland Office
State of Oregon

Gary McGrew, Regulatory Supervisor
License Bureau
City of Portland

TASK FORCE ON CONTROLLING DISTRIBUTION OF STOLEN PROPERTY

BACKGROUND SUMMARY

The Task Force was charged with developing recommendations to help control the distribution of stolen goods in the Portland area. Members relied on readily available statistics and their own experience to develop background information on the nature of the problem. No attempt was made to resolve the underlying problems of burglary and theft. This summary was used as background when reviewing possible courses of action likely to result in curbing the open flow of stolen goods.

- * Portland has a BIG burglary problem which is part of a BIG overall problem relating to all types of theft of property from homes, businesses, automobiles, retail stores, individuals, etc.
- * The problem has increased dramatically in the last ten years.
- * The increase in theft is closely linked to the increase in drug traffic in the area.
- * Thieves and burglars need to convert stolen goods to cash quickly, often to feed a drug addiction.
- * The problem is increased by the lack of adequate correctional and treatment facilities which allow known felons to remain on the streets.
- * This is a regional problem affecting all cities and counties in the Portland metropolitan area.
- * In 1988 an estimated \$50 million in burglary/theft crime loss was reported in the Portland metropolitan area.
- * Only a small percentage of stolen property is ever recovered.
- * There is an underground economy in stolen property in Portland that can easily absorb all the goods thieves can supply.
- * A dramatic increase in the number of secondhand stores has accompanied the growth in the burglary/theft rate.
- * It is probably easier to fence stolen property now than it was ten years ago, largely because of the increase in stores.
- * By one estimate up to 75% of stolen property at one time or another moves through some type of secondhand store, pawn shop, garage sale, flea market or other outlet.

-2-

- * Some stores actively deal in stolen property and go to extreme measures to circumvent existing laws and regulations.
- * There is at least some evidence of regional or interstate movement of goods to avoid local identification and recovery of stolen items. Portland serves as a disposal ground for goods stolen throughout the state and region.
- * Flea markets, garage sales and some antique stores also serve as conduits for certain types of stolen property.
- * Criminal prosecution for theft by receiving is difficult to pursue and given the relatively light sentences passed down for this offense, is not a viable enforcement mechanism.
- * The effect of many current laws and regulations is to burden legitimate store operators while illegal operations simply ignore the requirements.
- * Although there is growing evidence that this is a state-wide problem the 1989 Legislature did not hold a hearing on any of the bills introduced to address this subject. A proposal for an interim task force to study the problem was also rejected.
- * There is no sign of additional revenues or resources being made available to help address this problem from traditional resources.

**PROPOSED AMENDMENTS TO THE CITY OF PORTLAND
SECONDHAND DEALER CODE, CHAPTER 14.37**

- 1. Expand the Code to cover all purchases of used property regulated by this chapter.**
 - a. Delete references in the Code to purchases from persons "who appear with such article at the dealer's place of business." This would expand the scope of the Code to all purchases, whether at the business or off-premises.
 - b. Delete exception for purchases of property from "persons representing a bona fide, licensed business." This would make it clear that transactions involving a sale of property from a licensed business to a regulated dealer are subject to all of the holding, reporting, and other requirements. This would also bring permitted Secondhand Dealer-to-permitted Secondhand Dealer sales within the Code requirements. Transactions between permitted Secondhand Dealers would be reported to the Police Bureau on a special type of reporting form. However, these transactions would be exempt from the 15 day holding requirement if the 15 day holding period had already occurred with the subject property. This would avoid two separate holding periods for the same item of property. For purchases of new property from bona fide licensed wholesale businesses the Police Bureau would have the authority to waive any part or all of the 15 day holding period, upon a request for waiver from the permitted Secondhand Dealer.
- 2. Expand the Code, which currently covers purchasing used property regulated by this chapter, to include offering for sale used property regulated by this chapter.**

The definition would read as follows:

"Secondhand dealer" means any person engaged in, conducting, managing, or carrying on a business that is required to obtain a business license from the City of Portland, that purchases or offers for sale used property regulated by this chapter.

- 3. Amend the list of property regulated by the Code.**
 - a. Amend the list of used property and goods, also known as regulated property. This list would consist of categories of property which are commonly stolen, and which are readily identifiable or readily traceable.

- b. Create a list of specific property and goods for which a secondhand dealer permit would not be required. Regulated property will not include any of the following property: vehicles required to be registered with the Oregon Motor Vehicles Division; boats required to be certified by the Oregon Marine Board; books; glassware; furniture; refrigerators, stoves, washers, dryers and other similar major household appliances; and the following items when being purchased by a bona fide business for investment purposes: postage stamps, stamp collections and philatelic items; gold bullion bars (0.995 fine or better); silver bullion bars (0.995 fine or better); and all coins or tokens, whether actual currency or commemorative, from all countries.

4. Create a two-level permit system.

Create a new classification of "occasional secondhand dealers", consisting of secondhand dealers with only limited dealings in regulated property.

- a. Define "occasional secondhand dealer" as any secondhand dealer, as defined by this chapter, who purchases no more than 50 regulated items of property in one year.
- b. Require all occasional secondhand dealers to apply for and obtain a permit to buy used property or offer used property for sale. The annual fee for an "occasional secondhand dealer" would be \$25.00.
- c. Occasional secondhand dealers would be subject to all regulations contained in the Secondhand Dealer Code.
- d. Upon making 50 purchases of regulated items of property during a one year period, the occasional dealer would be required to apply for and obtain a secondhand dealer permit. The initial application fee for a secondhand dealer permit would be \$150.00. The \$25.00 "occasional secondhand dealer" permit fee would be allowed as a credit toward the \$150.00 secondhand dealer permit fee. The \$75.00 renewal fee for a secondhand dealer, other than an occasional dealer, would remain the same.

5. Delete separate references to "precious metal and gem" dealer.

Fold this classification of dealer into the secondhand dealer regulations. Under the existing code, there is no practical difference in the regulatory requirements between the precious metal and gem dealers and the secondhand dealers. This appears to be an historical distinction which there is no reason to continue.

6. Increase the holding period for property in certain cases.

- a. Increase the holding period for property identified by the Police Bureau as stolen property from the current 30 day period to 180 days.
- b. Increase the holding period to 90 days for all regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which are, or have been, obliterated, removed, altered or otherwise rendered illegible.

7. Increase the City's ability to deny applications.

An application for a new secondhand dealer or occasional secondhand dealer permit could be denied based upon a history of enforcement problems or illegal activity relating to regulated property at a location. (Similar to Specified Crime Property ordinance - consideration of the structure's general reputation when determining whether to issue a permit for the location.)

8. Add a new section to the code titled, Presumption Created by Advertising.

This section would read as follows: "any person who by advertising or otherwise holds themselves out to be purchasing or offering for sale used goods regulated by this chapter within the City shall be presumed to be purchasing or offering for sale used goods regulated by this chapter within the City". This is similar to a provision found in the Business License Law.

DRAFT LIST of REGULATED PROPERTY

PRECIOUS METALS AND GEMS

WATCHES and JEWELRY

STERLING SILVER

AUDIO EQUIPMENT

VIDEO EQUIPMENT

PHOTOGRAPHIC and OPTICAL EQUIPMENT

ELECTRICAL OFFICE EQUIPMENT

POWER YARD AND GARDEN TOOLS

POWER EQUIPMENT and TOOLS

AUTOMOTIVE HAND TOOLS

TELEPHONES or TELEPHONE EQUIPMENT

MUSICAL INSTRUMENTS

FIREARMS

SPORTING EQUIPMENT

OUTBOARD MOTORS, PROPS and OUTDRIVES



CITY OF

PORTLAND, OREGON

BUREAU OF LICENSES

Dick Bogle, Commissioner
Dennis Nelson, Manager
1120 S.W. 5th Avenue, Room 1206
Portland, Oregon 97204
(503) 796-5157
Fax: (503) 796-5192

February 16, 1990

To: All Interested Parties

From: Task Force on Controlling Distribution of Stolen Property

NOTICE OF PUBLIC CITY COUNCIL HEARING

The Task Force on Controlling Distribution of Stolen Property was formed by Commissioner Dick Bogle to review the City's regulations pertaining to Chapter 14.37 of the City Code titled, Precious Metal and Gem Dealers and Secondhand Dealers, and the distribution of stolen goods. This Task Force, comprised of representatives from law enforcement agencies, secondhand dealers, and others, has been meeting on a regular basis.

Recommendations of the Task Force may be found in the enclosed "Final Report". A copy of the actual proposed ordinance amending Chapter 14.37 of the City Code may be requested by calling the staff contact named below.

A public City Council hearing has been scheduled to consider the Final Report and the recommended City Code changes. Participants at the City Council hearing will be provided with an opportunity to present oral testimony. Written testimony may be turned in at the hearing or, prior to the hearing, may be mailed to the Bureau of Licenses, Room 1206, 1120 SW 5th Ave, Portland, Oregon 97204. The City Council is expected to act on the recommendations at the conclusion of the hearing.

CITY COUNCIL HEARING

Date: Thursday, March 15, 1990

Time: 2:00 p.m.

Place: City Council Chambers, City Hall,
1220 S.W. 5th Avenue, Portland, Oregon

Staff Contact: Juanita Lewis 796-5152