

ORDINANCE #69332
Board Bill No. 171
Floor Substitute

An Ordinance pertaining to secondhand dealers; amending Section Two, Ordinance 63478, codified as Chapter 8.82.010 of the Revised Code of the City of St. Louis pertaining to the definition of secondhand dealer; amending Section One of Ordinance 69096, codified as Section 8.82.040 of the Revised Code of the City of St. Louis and pertaining to the requirements of license applications; amending Section Two of Ordinance 68812 and Section Two of Ordinance 69096, codified as 8.82.050 of the Revised Code of the City of St. Louis, and pertaining to photographs, transaction forms and holding period; amending Section Two of Ordinance 63478, codified as 8.82.060, pertaining to the purchase of certain articles; adding a new section pertaining to the business licensing and purchasing requirements of secondhand cellular phones and other electronic communication devices and a new section on cooperating with law enforcement authorities; containing a penalty clause, severability clause and an effective date clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Section Two, of Ordinance 63478, is hereby amended as follows:

8.82.010 Defined.

Any person doing business in the City, who purchases and/or sells goods of any kind or description, having once been used or transferred from the manufacturer to the dealer and then received into the possession of third parties whether the same consists of cloths, carpets, clothing, rags, iron or other metals, furniture or articles of household utensils, articles of personal use, electronics, computers, cellular phones, electronic communication devices, apparel, or of jewelry of any kind or description, or items made in whole or part of gold, silver or precious metals or gemstones including bullion, or coins shall be a secondhand dealer.

SECTION TWO. Section One of Ordinance 69096, codified as Section 8.82.040 of the Revised Code of the City of St. Louis, pertaining to license applications is hereby amended as follows:

8.82.040 License—Application.

Every application for a license shall be made in writing to the License Collector and shall state where the business is to be carried on. Before any license shall be issued, the License Collector shall procure from a police officer designated by the Chief of Police to review such application, an endorsement on the back of the application therefore.

A. That in their opinion the applicant has a good moral character and shall not have been convicted within the ten years preceding the date of application for license or for renewal of license or be on parole or a fugitive from justice for any federal, state or municipal offense involving:

1. Drugs or narcotics;
2. Robbery;
3. Burglary;
4. Auto theft;
5. Stealing;
6. Receiving stolen property;
7. Embezzlement;
8. Extortion;
9. Forgery;
10. Gambling;

11. Bribery;
12. Perjury;
13. Any weapons offense; or
14. Any crime of violence.

B. That the applicant has agreed not to purchase any camera, radio, television set, lawn mower, typewriter, addition machine, calculating machine, copying machine, duplicating machine, tape recorder, tape player, digital recorder, cash register, DVD player, movie player, game system console or device, GPS device, still or moving picture projector or offset projector, dictating machine, record player, cellular phone, electronic communication device, laptop or desktop computer, handheld computerized device, music player device, electric buffer, electric polisher, electric floor waxer, computer equipment and accessories, scanner, printer, fax or any item that is manufactured with a serial number or other identifying insignia, unless the item shall have plainly visible thereon the manufacturer's serial number or other identifying insignia.

C. That the applicant has a camera that will take a clear photograph of the seller and has agreed to use such camera to photograph every person, except as herein provided, in connection with all purchases and/or trade-in allowance of all articles by him, and to make such photographs available to any law enforcement officer or License Collector upon request.

SECTION THREE. Section Two of Ordinance 68812 and Section Two of Ordinance 69096, codified as 8.82.050 of the Revised Code of the City of St. Louis, is hereby amended as follows:

8.82.050 Photograph, transaction forms and holding period.

A. No secondhand dealer shall accept any article or property as full or part payment, or purchase any article or property unless he shall make a photograph of the person from whom such article is being received and attach such photograph to a transaction form which shall be completed at the time of the transaction. For jewelry of any kind or description, or items made in whole or part of gold, silver or precious metals or gemstones including bullion or coins, a photograph of the item shall be taken and the information in the transaction form, as provided in 8.82.050(B), paragraphs one through nine, shall be entered into the Law Enforcement Agency Data System ("LEADS") or any successor database approved by the St. Louis Police Department.

B. The transaction form shall include, but not be limited to the following:

1. The date, time and place of the transaction.
2. The correct legal name, date of birth and place of residence, including City and State, of the seller.
3. A copy of the seller's driver's license, or if not available, a copy of the seller's military identification, passport or other approved State identification number or State identification card.
4. The amount paid for the property.
5. A photograph, taken by the secondhand dealer, of the transaction depicting a discernable likeness of the seller.
6. The home, business and cellular telephone number of seller.
7. The name of the employee handling the purchase.
8. The right thumbprint of the seller and, if the right thumbprint cannot be obtained, the left thumbprint shall be obtained and an explanation shall be provided as to why the right thumbprint was not available.
9. Any other information requested by St. Louis law enforcement authorities.

C. The requirement that the seller be photographed and thumb-printed shall not apply to any purchase or trade-in transaction which occurs at an auction or in the private house or office of the person selling said items but all other requirements as aforesaid shall remain in effect.

D. The photograph and transaction form shall be maintained by the secondhand dealer for a period of one year from the date of the transaction. No secondhand dealer shall refuse to deliver such photograph or transaction form to any law enforcement officer within one year following the date of the transaction. Every secondhand dealer shall display a notice to his customers in a prominent place to the effect that he is required to photograph and fingerprint every person selling or offering as full or part payment an item to him, by city ordinance.

E. At least sixty days prior to the destruction of a photograph or transaction form, the licensee shall notify, in writing, the police department of his intent to destroy such documents. The police department, at its option, shall request the licensee to turn over all said documents to the police department, and the licensee, upon said request, shall turn over all documents to the police department.

F. It shall be unlawful for any secondhand dealer who purchases and/or sells jewelry of any kind or description, or items made in whole or part of gold, silver or precious metals or gemstones including bullion, or coins to sell, trade, melt down or in any way dispose of, alter, or destroy until forty-eight (48) hours after the date of its purchase. Upon written notice that the St. Louis Metropolitan Police Department have cause to believe an item has been stolen, the secondhand dealer shall retain the jewelry, or items made in whole or part of gold, silver or precious metals or gemstones including bullion, or coins for any additional ten (10) days.

SECTION FOUR. Section Two of Ordinance 63478, codified as 8.82.060 in the Revised Code of the City of St. Louis, is hereby amended as follows:

8.82.060 Purchase of certain articles.

No secondhand dealer shall purchase any camera, radio, television set, lawn mower, typewriter, addition machine, calculating machine, copying machine, duplicating machine, tape recorder, tape player, digital recorder, cash register, DVD player, movie player, game system console or device, GPS device, still or moving picture projector or offset projector, dictating machine, record player, cellular phone, electronic communication device, laptop or desktop computer, handheld computerized device, music player device, electric buffer, electric polisher, electric floor waxer, computer equipment, scanner, printer, fax or any item that is manufactured with a serial number or other identifying insignia, unless the item shall have plainly visible thereon the manufacturer's serial number or other identifying insignia.

SECTION FIVE. The following new section, pertaining to the purchase of cellular phones and other electronic communication devices by secondhand dealers is added as follows:

8.82.065 Purchase of cellular phones and other electronic communication devices.

A. When purchasing cellular phones or other electronic communication devices, the secondhand dealer shall obtain the following information from the seller of the phone or device and shall, at the time of the purchase, enter the information into the Law Enforcement Agency Data System ("LEADS") or any successor database approved by the St. Louis Police Department:

1. A complete and accurate description of the cellular phone or electronic communication device taken, purchased or received by such merchant including serial number, if any.
2. The date, time and place of the purchase.
3. The correct legal name, date of birth and place of residence, including City and State, of the seller.
4. A copy of the seller's driver's license, or if not available, a copy of the seller's military identification, passport or other approved State identification number or State identification card.
5. The amount paid for the property.
6. A photograph, taken by the secondhand dealer, of the transaction depicting a discernable likeness of the seller.
7. The home, business and cellular telephone number of seller.
8. The name of the employee handling the purchase.

9. The right thumbprint of the seller and, if the right thumbprint cannot be obtained, the left thumbprint shall be obtained and an explanation shall be provided as to why the right thumbprint was not available.

10. Any other information requested on the form.

B. No purchases shall be made from persons not of legal age.

C. When a police officer has reasonable cause to believe that the cellular phone or electronic communication device received by a secondhand dealer is stolen, the police officer may place a hold notice upon the suspected stolen property. The identified cellular phone or electronic communication device, which has a hold notice, shall be held by the secondhand dealer's place of business for sixty calendar days, unless released sooner, by authority of the policy chief or his designee. After sixty calendar days have passed, unless the police chief or his designee authorizes other disposition, the hold is automatically released and the secondhand dealer may dispose of the cellular phone or electronic communication device.

SECTION SIX. The following new section, pertaining to the responsibility of secondhand dealers to cooperate with law enforcement is added as follows:

8.82.070 Cooperating with Law Enforcement.

Every secondhand dealer and every person employed by such dealer in the conduct of their business shall allow any law enforcement officer or other official designated by the Chief of Police of the City of St. Louis to examine every part of the business premises at any time and shall allow the designee to examine, photograph, or copy any goods, articles, things, books or other records on the premises to determine compliance with this ordinance and to search for and to place a hold upon any item that may be stolen property.

SECTION SEVEN. Notwithstanding anything in this ordinance to the contrary, a secondhand dealer shall not include a mobile service company regulated by FCC (Federal Communications Commission) that purchases cellular phones or electronic communications devices in return for a non-cash account credit if:

1. for a current customer:

a) the current customer has a preexisting business relationship and account with the mobile service company that is providing the non-cash credit to the customer; and

b) the mobile service company has already obtained and retained information necessary to obtain credit information unique to the current customer; and

c) the mobile service company participates in a service to allow customers to block all use of a stolen cellular phone or electronic communication device, reports stolen cellular phones and electronic communication devices to an industry-wide mobile service database that tracks stolen cellular phones and electronic communication devices, and does not accept stolen cellular phones or electronic communication devices which have been reported as stolen in the industry-wide mobile service database; and

d) on the day of the transaction to accept the used cellular phone or the electronic communication device, the mobile service company enters information into the Law Enforcement Agency Data System ("LEADS"), or any successor database approved by the St. Louis Police Department, the serial number, Electronic Serial Number (ESN), International Mobile Equipment Identifier Number (IMEI), Cellular Data Number (CDN), or any other similar unique numeric identifier; description of the used cellular phone or electronic communication device; and account number associated with the customer turning in for credit the used cellular phone or electronic communication device to the mobile service company; or

2. for a new customer who does not have a preexisting relationship and account with the mobile service company that is providing the non-cash credit to the customer:

a) the mobile service company, when activating an account for the new customer, obtains and retains information necessary to obtain credit information unique to the person surrendering the used cellular phone or electronic

communication device in return for the non-cash credit such as date, time and place of transaction; legal name, date of birth, and residence of seller; driver's license information (if driver's license is not available then military identification, passport or other approved State identification number or State Identification card); the credit amount provided to the account; employee's name handling the transaction; and the home, business and cellular phone number of the seller; and

b) the mobile service company participates in a service to allow customers to block all use of a stolen cellular phone and/or electronic communication device, reports stolen cellular phones and electronic communication devices to an industry-wide database that tracks stolen cellular phones and electronic communication devices, and does not accept stolen cellular phones or electronic communication devices reported in the industry-wide database; and

c) on the day of the transaction to accept the used cellular phone or electronic communication device the mobile service company enters information into the Law Enforcement Agency Data System ("LEADS"), or any successor database approved by the St. Louis Police Department, the serial number, Electronic Serial Number (ESN), International Mobile Equipment Identifier Number (IMEI), Cellular Data Number (CDN), or any other similar unique numeric identifier; description of the used cellular phone or electronic communication device; and account number associated with the customer turning in for credit the used cellular phone or electronic communication device to the mobile service company.

SECTION EIGHT. The following new section pertaining to the penalty for violating the Secondhand Dealer Licensing requirements is added as follows:

8.82.140 Penalty Clause.

A. Any person or business that is found to be in violation of any regulations set forth in this Chapter shall be punished by a fine of not less than one dollar nor more than five hundred dollars, per violation, or by imprisonment for not more than ninety days or by both such fine and imprisonment.

B. In addition to the penalties described in this section, the City may revoke an occupancy permit issued for the business premise of any person or business that knowingly and willfully violates this chapter and shall revoke the secondhand dealer's license of any person or business who knowingly and willfully violates this chapter.

SECTION NINE. Severability Clause.

The provisions of this section are severable. If any provision of this ordinance is declared invalid, that invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provision.

SECTION TEN. Effective Date.

Upon passage and approval by the Board of Aldermen and the Mayor, this Ordinance shall be in full force and effect on January 1, 2013.

Approved: December 19, 2012