

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

1984 MAY 31 PM 2:20

84-283

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

CHARLES STERN
COUNTY CLERK

Charles Stern DEPUTY

In the Matter of an Ordinance)
for the Licensing and Regulating)
of Peddlers, Itinerant Merchants,) ORDINANCE NO. 372
Second-hand Dealers, and Pawnbro-)
kers)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 23rd day of May, 1984, sat for the transaction of County business in special session, Commissioners David E. Bishop and Ted Lopuszynski being present.

WHEREAS, the Board of Commissioners has determined that it is necessary and proper for the County to regulate by ordinance the activities of peddlers, itinerant merchants, second-hand dealers and pawnbrokers in order to protect the public health, welfare and safety of the citizens of Yamhill County; and

WHEREAS, there currently exists an Ordinance entitled "In the Matter of an Ordinance for the Licensing of Entertainment Business, Drive-In Restaurant, Peddlers and Itinerant Merchants", enacted December 9, 1970, but that said Ordinance should be amended to reflect certain changes deemed desirable by the Board; and

WHEREAS, on January 25, 1984, a public hearing was held before the Board of Commissioners in regard to a proposed business license ordinance which would supplant the ordinance referred to above, said hearing being continued to February 8, 1984; and

WHEREAS, on February 8, 1984, the Board of Commissioners continued the hearing on the proposed business license ordinance and determined at that time to appoint a committee comprised of interested persons who were subject to the regulations imposed by the proposed ordinance to consider amendments to the form of the proposed ordinance and continued the public hearing until the 9th day of May, 1984; and

WHEREAS, on May 9, 1984, the Board continued the public hearing to receive a revised ordinance upon the recommendation of the committee appointed by the Board on February 8, 1984, and the Board receiving public testimony as to certain additional changes which were requested by interested citizens and continued the hearing to May 23, 1984; and

WHEREAS, on May 23, 1984, the Board concluded the public hearing on said ordinance, and having received no adverse testimony from interested citizens in regard to the content of said ordinance, entitled "In the Matter of an Ordinance For the Licensing and Regulating of Peddlers, Itinerant Merchants, Second-hand Dealers and Pawnbrokers", said Ordinance being attached hereto as Exhibit "A"; and

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

(Sitting for the Transaction of County Business)

In the Matter of an Ordinance for)
the Licensing and Regulating of)
Peddlers, Itinerant Merchants,)
Secondhand Dealers and Pawnbrokers.)

ORDINANCE NO. 372

WHEREAS, ORS 203.035 provides that a County may enact ordinances regulating matters of County concern; and

WHEREAS, on the 19th day of March, 1969, the Yamhill County Board of Commissioners enacted an Ordinance entitled: "In the Matter of an Ordinance for the Requirement of the Licensing of Certain Businesses," said Ordinance being supplanted by an Ordinance entitled "In the Matter of an Ordinance for the Licensing of Entertainment Business, Drive-In Restaurant, Peddlers and Itinerant Merchants", enacted December 9, 1970, which Ordinance regulates certain businesses; and

WHEREAS, the Board of Commissioners has now determined that it is necessary and proper for such Ordinance to be amended and that such change is necessary for the protection of the public health, welfare and safety and is in the best interest of the people of the County of Yamhill; NOW, THEREFORE,

IT IS HEREBY ORDAINED:

SECTION 1 - DEFINITIONS

Section 1.1 - General Definitions. As used in this Ordinance, unless the context requires otherwise:

(1) "Affected business" means any junk dealer, secondhand dealer, pawnbroker, peddler, or itinerant merchant.

(2) "Board" means the Yamhill County Board of Commissioners.

(3) "Clerk" means the Yamhill County Clerk.

(4) "Health Department" shall mean and refer to the Yamhill County Health Department and employees and representatives thereof.

(5) "Licensed business" means any business licensed under this Ordinance.

(6) "Peddler" or "itinerant merchant" means:

(a) Every person who, for himself or as agent of another, goes from place to place, or from house to house, carrying for sale and offering or exposing for sale any goods, wares, merchandise, or services; or

(b) Every person who, for himself or as agent of another, goes from place to place or from house to house, selling or offering to sell for future delivery, by sample or catalog, at retail, to individual purchasers who are not dealers, in the articles sold, any goods, wares, merchandise, or services.

(7) "Person" means any natural person, and any firm, proprietorship, partnership or corporation.

- (8) (a) "Secondhand Dealer" - means a person who buys, sells or trades in previously used goods, whether the previously owned goods constitute all or part of the person's business.
- (b) A person conducting a "Garage Sale", "Estate Sale", or other sale not in his typical course of business shall not be classified as a "secondhand dealer" or be subject to this ordinance unless one or more of the following conditions exist:
- (i) The person conducts a sale on more than three (3) consecutive days; or
 - (ii) The person conducts a sale in more than two (2) successive weeks; or
 - (iii) The person conducts a sale on more than nine (9) days during a one-year period.

(9) "Sheriff" means and shall refer to the Yamhill County Sheriff, his duly authorized deputies and representatives.

SECTION 2 - LICENSING REQUIREMENTS

SECTION 2.1 - License Required. Except as herein provided, no person shall conduct or operate an affected business or advertise or otherwise hold out that he is conducting or operating an affected business in any area of Yamhill County outside the territorial limits of an

incorporated city without first obtaining a license from the County in a manner prescribed in this Ordinance. If any person conducts, operates, advertises or holds out that he is conducting more than one kind of affected business, licenses shall be obtained for each affected business.

Section 2.2- Exclusions. This Ordinance shall not apply:

(1) To any regularly organized and supervised school district activity or program that takes place on school property.

(2) To any regularly organized and supervised church activity or program that takes place on church property.

(3) To any regularly organized and supervised fund-raising activity or program of a not-for-profit corporation recognized as such by the Internal Revenue Service under Section 501 (c) of the Internal Revenue Code.

Section 2.3- Applications. Applications for all licenses required by this Ordinance shall be made in writing to the Clerk and shall be subject to the following requirements:

(1) Each application shall state the name and address of the applicant, the license desired, the location to be used, if any, the time covered, and the fee to be paid; and each application shall contain such additional information as the Clerk may require for the proper guidance of the County officials in issuing the license applied for.

(2) A peddler or itinerant merchant shall also provide the information required by Section 5.1(1).

Section 2.4 - License and Application Forms. Forms for all licenses and applications therefore shall be prepared and kept on file by the Clerk.

Section 2.5 - Signatures. Each license issued shall bear the signature of the Yamhill County Clerk.

Section 2.6 - Investigations. Upon receipt of an application from a business not licensed by Yamhill County prior to January 1, 1984, the Clerk may refer the application to the County Planning Director, the Sheriff, or any other County officer deemed appropriate by the Clerk. The Planning Director, Sheriff, or other officer shall conduct such investigation as may be necessary to determine whether the applicant is able to comply with the terms of this Ordinance. Each officer charged with the duty of making the investigation shall make a report thereon to the Clerk within five (5) days after the time of receipt of the referral.

Section 2.7 - Issuance and Denial of License.

(1) If it appears to the Clerk that the applicant has complied with this Ordinance, and if no adverse reports from investigating officers have been received by the Clerk within five (5) days after referral of license application by the Clerk to County officers, in cases where the clerk makes such a referral, the Clerk shall issue the license.

(2) If the applicant has not complied with this Ordinance, or if adverse reports have been received by the Clerk within the five-day period specified for investigations, the Clerk shall refer the application to the

Board of Commissioners. In such cases, the Board of Commissioners may order the Clerk to issue the license, or may deny the application. If the Board of Commissioners denies the application, it shall send to the applicant a written notice of its denial, together with the reasons for the denial. The applicant, upon receipt of this notice, is entitled to be heard in person, or by attorney, at the next regular or special session of the Board of Commissioners, or may be heard, at the discretion of the Board, at a meeting called for that purpose.

Section 2.8 - Renewal of License.

(1) All annual licenses shall expire on the last day of the calendar year, provided that original licenses purchased after October 1 and prior to December 31 shall be valid for the succeeding calendar year.

(2) The Clerk shall mail to all annual license holders a statement of the time of expiration of the license held, and shall include in the mailing an application form for renewal of the license. The notice shall be mailed at least three weeks prior to the date of such expiration.

(3) Failure to mail the notice, or failure of the licensee to receive the notice, shall not excuse the licensee from obtaining a renewal of the license. Failure to send the notice, or failure to receive the notice, shall not be a defense in an action for operation without a license. However, no business licensed under this Ordinance shall be closed by the County for failure to renew its license until 72 hours after notification by the County.

(4) All daily licenses shall include on the said license the specific days for which the license is valid. Said license shall expire at 11:59 o'clock p.m. on the last date set forth on said license.

Section 2.9- Nontransferability of Licenses. Licenses are not transferrable or assignable.

Section 2.10 - Renewal of License. At any time, thirty (30) days before the end of the calendar year, the Clerk may issue to a currently licensed business a license to continue to operate the same business during the succeeding year. Such renewal shall not be issued until all fees for the renewed license and identification certificates, if required or requested by the licensed business, are paid.

Section 2.11 - Posting License. A person conducting a licensed business shall keep his license posted in a prominent place on the premises at all times.

SECTION 3 - FEES

Section 3.1 - Peddler License Fee. The license fee for a peddler or itinerant merchant is \$15.00 per year.

Section 3.2 - Pawnbroker, Secondhand and Junk Dealer Fee. The license fee for the business of pawnbrokers, second-hand dealers and junk dealers is \$20.00 per year.

Section 3.3 - Fees for Identification Certificates. A fee of \$2.00 for each identification certificate shall be paid in advance to the Clerk by each licensed business for which identification certificates are issued.

Section 3.4 - Disposition of Fees. All fees collected pursuant to this Ordinance by the Clerk shall be paid into the County general fund.

SECTION 4 - GENERAL BUSINESS REGULATIONS

Section 4.1 - Change of Business Location. The location of any licensed business may be changed, provided ten days' notice thereof is given to the Clerk. This section does not apply where ownership of the business is transferred.

Section 4.2 - Unlawful Trade Practices. No person operating, maintaining or engaging in an affected business shall engage in any unlawful trade practice as proscribed by Chapter 646 of the Oregon Revised Statutes.

Section 4.3 - Nuisances.

(1) No person operating, maintaining or engaging in an affected business having a fixed place of business within the County shall:

(a) Permit the unsightly accumulation or spread of litter; or

(b) Permit or encourage excessive noise, smoke or odor upon the premises to the annoyance of the public or adjacent property owners; or

(c) Fail or neglect to maintain order upon the premises.

(2) The County shall give seven (7) days prior notice of its intent to abate the nuisances set forth in this section before implementing legal proceedings thereon.

Section 4.6 - Traffic Hazards. No person operating, maintaining or engaging in an affected business having a fixed place of business within the County with access to a public road, shall so conduct the affected business in a manner creating a continuing or repeated hazard to traffic upon the road.

Section 4.7 - Federal and State Laws and Regulations. The licensed business shall comply with all applicable Federal and State laws and regulations in addition to regulations imposed by this and other County Ordinances.

SECTION 5 - PEDDLER AND ITINERANT MERCHANT REGULATIONS

Section 5.1 - Peddler Regulations.

(1) In addition to the information required to be submitted with a license application under Section 2.3 of this Ordinance, a peddler or itinerant merchant shall submit the following information:

(a) A list of the names and addresses of all persons employed by the peddler or itinerant merchant for work in the County. Peddlers and itinerant merchants shall promptly notify the Clerk of any deletions or additions to this list during the license year.

(b) If the peddler or itinerant merchant represents a firm or corporation located outside the County or State, the name, address and telephone number of such firm or corporation.

(c) A description of the merchandise offered for sale.

(d) A list of states in which the peddler or itinerant merchant has conducted business.

(2) No person, while engaged in the affected business of peddler or itinerant merchant, shall enter uninvited into a private building, structure, or room.

(3) A peddler or itinerant merchant shall perform the following requirements when soliciting door to door:

(a) Within 30 seconds after beginning the conversation, the peddler or itinerant merchant shall:

(i) Provide identification of both the person and whom the person represents;

(ii) Explain the purpose of the person's call;

(iii) Provide a description in commonly understood terms of the goods or services offered for sale; and

(iv) Inquire whether the person being solicited is interested in listening to a sales presentation and immediately discontinue the solicitation if the person being solicited gives a negative response; and

(b) During the course of the solicitation, state the total cost of the goods or services offered for sale and the number,

timing and amount of installment payments if payment on an installment basis is available to the person being solicited.

Section 5.2 - Identification Certificates.

(1) All peddler and itinerant merchant business, in addition to obtaining a license, shall apply to the Clerk for the issuance of identification certificates for each of their employees and representatives who will be working in the County. Any other licensed business may apply for such certificates if it desires to do so.

(2) The application shall be made upon a form provided by the Clerk and shall particularly identify each person for whom a certificate is sought. The Clerk shall issue the certificates, but only if the applicant's business license has been approved or is in force. A fee of \$2.00 per certificate shall be paid to the Clerk.

Section 5.3 - Display and Surrender of Certificate. A licensed business to which identification certificates are issued shall deliver them personally to its employees or representatives, who shall thereafter retain them in their possession while engaging in the affected business, and shall display the certificate to any Yamhill County official upon request. Each certificate remains the property of the County. Certificates shall be promptly surrendered to the Clerk upon the revocation or expiration of the license issued to the licensed business, or upon termination of the employment of any employee or representative by the licensed business.

SECTION 6 - PAWNBROKER, SECONDHAND DEALER, AND
JUNK DEALER REGULATIONS

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Section 6.1 - Records.

(1) Each pawnbroker, secondhand dealer, and junk dealer subject to this Ordinance, shall keep at its place of business a register of all secondhand articles purchased by the pawnbroker, secondhand dealer or junk dealer, except that any expenditure of less than a total of \$10.00 to a single source in a seven (7) day period for the purchase of secondhand articles need not be reported. The register shall contain a full, true and complete description of the secondhand articles including any engraved or attached identifying number, mark or symbol.

(2) The register shall show the day the article was received and the amount paid. The register shall include the name and current address of the person from whom the purchase is made. In addition, two pieces of identification shall be presented at the time of purchase unless the seller is personally known by the secondhand dealer. The type of identification used, such as a driver's license, along with its number, shall be listed in the register with the person's name.

(3) The register information on a purchase shall be retained by the dealer for a period of not less than one year. At the request of the Sheriff or his designee, the Sheriff or his designee shall be allowed to review the

register and any regulated articles in the possession of the dealer. Inspection of register and regulated articles shall be during regular business hours.

(4) Each regulated article in the dealer's register shall be identified in the register with a number, letter or symbol. The article itself, while it is in the possession of the dealer, shall be identified by placing that number, letter or symbol on the article.

Section 6.2 - Power of Sheriff To Require Dealer To Hold Merchandise. Whenever the Sheriff, or his designee, upon reasonable belief that an article possessed by a licensed business is the subject of a theft, notifies in writing any pawnbroker, secondhand dealer or junk dealer not to dispose of any specifically described article, the article shall be retained in substantially the same form and shall not be sold, exchanged, dismantled or otherwise disposed of for a period of time, not to exceed fifteen (15) days, as determined by the Sheriff or his designee.

SECTION 7 - REVOCATION OF LICENSE

Section 7.1 - Procedure.

(1) When any licensee fails to comply with any provision of this, or any other applicable County ordinance, or State or Federal laws and regulations, the Board of Commissioners may revoke any license granted by it. Before taking any such action, the Board of Commissioners shall set a time for the licensee to appear before it to be heard, either in person or by attorney, in opposition to such

action. The Board shall give the licensee at least ten (10) days' notice, by registered mail, addressed to the licensee at his last address as shown by the license records, of the time of the hearing, of the action intended to be taken, and the reason for such action. Within thirty (30) days after the hearing, the Board shall make and enter in its journal an order setting forth its findings, determination and action, notice of which shall be given the licensee by mailing a copy thereof, by registered mail, to the licensee at his last address as shown by the license records.

Section 7.2 - Revocation Not Exclusive Penalty. The revocation of any license granted under the provisions of this Ordinance shall not preclude the imposition of further penalties as provided for in this Ordinance and the State law, but shall be considered merely as part of the said penalties imposed for violation of the rules and regulations provided for herein.

SECTION 8 - APPEALS

Section 8.1 - Procedure. Any person whose license is revoked may, within thirty (30) days from the date of the order, appeal the decision to the District Court of Yamhill County. The burden of proof in the District Court shall be upon the County. In event of an appeal, the revocation shall be stayed until determination of the matter by the District Court.

SECTION 9 - SEVERABILITY CLAUSE

Section 9.1 - If any part of this Ordinance is found invalid by a court of competent jurisdiction, the remainder shall nonetheless be operative.

SECTION 10 - COMPLIANCE

Section 10.1 - Compliance with the terms and conditions of this Ordinance shall constitute the minimum health, sanitary and safety provisions; and failure to comply with the terms and conditions of this Ordinance and State law shall constitute a public nuisance and shall be subject to being abated as such.

SECTION 11 - PENALTIES

Section 11.1 - Violation of Recordkeeping and Holding Requirements. Any pawnbroker, secondhand dealer or junk dealer who fails to comply with the recordkeeping and holding requirements set forth in Section 6 shall, upon conviction, be fined not more than five hundred dollars (\$500.00).

Section 11.2 - Any violation of any provision of this Ordinance other than as set forth in Section 6 shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00).

SECTION 12 - REPEAL OF PRIOR ORDINANCE

Section 12.1 - Certain Provisions of Prior Ordinance Repealed. (1) The following sections of the Yamhill County Ordinance dated the 9th day of December 1970, and entitled "In the Matter of an Ordinance for the Licensing of

Entertainment Business, Drive-In Restaurant, Peddlers and Itinerant Merchants," are hereby repealed:

- (a) Section 2.100 - 2.200
- (b) Section 3.200 - 3.500
- (c) Section 4.100 - 4.700
- (d) Section 5.100 - 5.300
- (e) Section 6.100 - 6.200

(2) All other portions of the Ordinance entitled "In the Matter of an Ordinance for the Licensing of Entertainment Business, Drive-In Restaurant, Peddlers and Itinerant Merchants," not specifically repealed by this section shall remain in full force and effect.

Section 12.2 - Effect of license issued under prior Ordinance. (1) Any license issued under said prior Ordinance shall be valid until the expiration date of said license, unless revoked in accordance with the provisions of this Ordinance.

(2) Any business operating under a license issued under a prior Ordinance shall conform in its operations to all rules and regulations set forth in this Ordinance.

SECTION 13 - EFFECTIVE DATE

Section 13.1 - This Ordinance, being necessary for the protection of the health, safety and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall be effective July 1, 1984.

DATED this 23rd day of
McMinnville, Oregon.

May, 1984, at
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ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

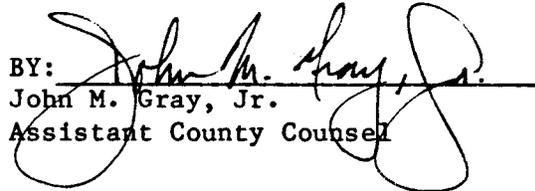
Charles St.  Clerk

BY: 
Elaine Peasey, Deputy


Dave Bishop, Chairman


Ted Lopuszynski, Commissioner

APPROVED AS TO FORM

BY: 
John M. Gray, Jr.
Assistant County Counsel

(not available for signature)
Robin J. Hamblet, Commissioner