

**ORDINANCE NO. 67-2015**

**TITLE: AMEND BARBERTON CODIFIED ORDINANCES  
CHAPTER 852 – SECONDHAND DEALERS**

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 852,  
“SECONDHAND DEALERS,” OF THE BARBERTON CODIFIED ORDINANCES.**

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Barberton,  
State of Ohio:

**SECTION 1.** That Chapter 852 of the Barberton Codified Ordinances entitled  
“Secondhand Dealers,” shall be amended by showing said amendment with a ~~strikethrough~~ for  
any deletions and **bold** for any additions:

**CHAPTER 852  
SECONDHAND DEALERS**

- 852.01 Secondhand dealer defined.
- 852.02 License required; application.
- 852.03 Effective period; fee; form; transferability; display.
- 852.04 Licensee's bond.
- 852.05 ~~Record book; inspection; information form.~~ **Record Information**
- 852.06 ~~Daily report.~~ **Daily Reports to Police**
- 852.07 ~~Tag on Purchases.~~
- 852.07 ~~Removing articles before thirty days.~~ **Retention of Articles**
- 852.08 ~~Purchases from drunkards or thieves.~~ **Prohibited Purchases; Customers**
- 852.10 ~~Purchases from minors; hours of operation.~~
- 852.09 **Exceptions.**
- 852.10 **Revocation of license.**
- 852.11 ~~Exceptions.~~
- 852.12 ~~Revocation of license.~~
- 852.99 Penalty.

***CROSS REFERENCES***

- Power to regulate - see Ohio R.C. 715.61
- License revocation for receiving stolen property - see Ohio R.C. 2961.03
- Secondhand dealers - see Ohio R.C. Ch. 4737
- Receiving stolen property - see GEN. OFF. 642.22
- Merchandise displays - see GEN. OFF. 668.07
- Pawnbrokers - see B. R. & T. Ch. 840

**852.01 SECONDHAND DEALER DEFINED.**

a) As used in this chapter, "secondhand dealer" means any person dealing in the purchase or sale of secondhand articles of whatever nature or dealing in the purchase or sale of any secondhand manufactured article, composed wholly or in part of gold, silver, platinum or other precious metal, for selling or otherwise using the same, or in the purchase or sale of old gold, silver or platinum, for the purpose of selling, or in the purchase or sale of pawnbroker tickets or other evidence of pledged articles or, not being a pawnbroker, who deals in the redemption or sale of furs, clothing or other pledged articles.  
(Ord. 261-1957. Passed 12-2-57.)

b) **“Secondhand Article” means any item which has previously been used, worn or owned by another person.**

**852.02 LICENSE REQUIRED; APPLICATION.**

No secondhand dealer shall engage in the business of keeping a secondhand store or a place for buying and selling secondhand goods in the City until he has first obtained a license to engage in and carry on such business. Every applicant for a license shall make application in writing to the Director of Public Safety, which application shall set forth the name under which the business is to be conducted, the name of every person interested in the business and the location at which the business is to be conducted. The application must be made by the person who is to conduct the business and must contain references of at least two other residents of the City as to the character of the applicant.

(Ord. 261-1957. Passed 12-2-57.)

#### 852.03 EFFECTIVE PERIOD; FEE; FORM; TRANSFERABILITY; DISPLAY.

Licenses required by this chapter shall be issued annually and shall expire annually on December 31. The license fee shall be ten dollars (\$10.00 **25.00**) per year. The license shall contain the name under which the business is to be conducted, the name of every person interested in the business and the location at which the business is to be conducted. Licenses issued under this chapter shall not be transferable to any other person. The business may be conducted only at the location for which the license is issued and the license must be conspicuously displayed.

(Ord. 261-1957. Passed 12-2-57.)

#### 852.04 LICENSEE'S BOND.

Every person licensed under the provisions of this chapter shall execute and file a bond in the sum of five hundred dollars (\$500.00), with the surety to the satisfaction of the Law Director, conditioned upon such person's conforming to the requirements of law and the ordinances of the City.

(Ord. 261-1957. Passed 12-2-57.)

#### 852.05 ~~RECORD BOOK; INSPECTION; INFORMATION FORM~~ **RECORD INFORMATION**

~~Every person licensed under the provisions of this chapter shall keep a book in which shall be written in ink in the English language at the time of the purchase of any secondhand article, a description thereof and the price paid the seller therefor, together with a statement of the age, address and personal description of the person from whom such purchase was made and the date and hour of such purchase, which statement shall be signed in the book by the seller. Such book shall at all times be open to the inspection of any member of the Police Division. In addition to such book every person so licensed shall, at the time of such purchase, fill out on a blank to be furnished by the Police Division, such information as may be called for by the blank form, and on the back of the blank form the seller shall write, in his own handwriting, his name, age and address. No entry in such book or on such form shall be erased, obliterated, altered or defaced.~~

**The Barberton Police Department shall enter into a contract for services and maintain its contract for services with LeadsOnline or a similar entity in order to enhance its investigative services to protect both secondhand dealers and members of the general public. Every secondhand dealer shall operate and maintain a computer system with internet access for the purposes described herein. Every secondhand dealer shall subscribe to LeadsOnline or the City's current electronic reporting system and maintain said subscription throughout the term of the secondhand dealer's business license. Every secondhand dealer shall provide an electronic record utilizing the LeadsOnline electronic reporting system or the electronic system then in use by the City. Such report shall enter and upload all information from its books and records regarding contracts for purchase, pledges and purchase transactions of any secondhand scrap iron, automobile parts, tires, household furniture or furnishings, household appliances, office equipment, coins, jewelry, jewels, weapons, bicycles, tools, toys, electronic media and or electronic equipment to LeadsOnline or a similar system as soon as reasonably possible after the transaction is consummated. Every secondhand dealer shall input information to every data field supported by the LeadsOnline system. In the event the electronic reporting system malfunctions or is otherwise not operational, the secondhand dealer shall, at all times during such malfunction or non-operation, be required to keep written records of any and all transactions that would have otherwise been entered in the electronic reporting system and shall submit such records to the Barberton Police Department within twenty-four (24) hours of such transaction during the non-operational period. The written records shall contain all information required on the electronic reporting system. . If any article that is left on deposit, pledged or purchased has engraved thereon a number, word**

or initials or contains settings of any kind, the description of the article in the report shall contain the number, word or initials engraved and shall describe the setting of the item and the number of each kind. In the event of a change to its electronic reporting system, the City shall notify all secondhand dealers in the City of the change within a reasonable time prior to such change.

(b) No item shall be received unless the person from whom the article is acquired exhibits a driver's license or state-issued identification card and the identifying numbers are recorded on the electronic report. Whenever the dealer has reason to know or believe the seller, purchaser or exchangor is under eighteen years of age, he must require that person to produce sufficient articles of identification to establish his age.

(c) This section shall apply in those instances where the article purchased or received by the dealer is any secondhand scrap iron, junk, household furniture or furnishings, household appliances, office equipment, coins, jewelry, jewels, weapons, bicycles, tools, toys, electronic media and or any other electronic equipment.

(d) Every entry shall be numbered consecutively, commencing with number one. No entry shall be erased, obliterated or defaced.

(e) All books or records which are required to be maintained as a result of this section shall be open to inspection by the Chief of Police or his designee immediately, at any time during hours of operation. Upon demand by the Chief of Police or his designee, the secondhand dealer shall also produce and show the article or articles thus listed and described.

852.06 ~~DAILY REPORT~~  
**DAILY REPORTS TO POLICE**

~~Every such licensed secondhand dealer shall, on every weekday before the hour of 12:00 noon, make out a report on a blank form, to be furnished by the Police Division for that purpose, a legible and correct copy of the record required to be kept, containing all the particulars of all purchases of such articles made on the preceding business day, and shall deliver such report to the Chief of Police or to his authorized representative, together with the blanks furnished by the Police Division, properly filled and signed by the seller, in accordance with the provisions of Section 852.05, or the report and filled blank may, if the Chief of Police so elects, be mailed to such address as the Chief of Police may designate in writing.~~  
(Ord. 261-1957. Passed 12-2-57.)

A person licensed as a secondhand dealer shall, furnish a list of every article taken in pawn or bought by such secondhand dealer the previous day by uploading such list to the LeadsOnline program via a secure internet connection.

(a) A person licensed as a secondhand dealer shall, every day furnish a photograph of every article of jewelry precious metal or stone, regardless of value, taken in pawn or bought by such secondhand dealer the previous day by uploading the photograph to the LeadsOnline program via a secure internet connection.

852.07 ~~TAG ON PURCHASES~~

~~Every such licensed secondhand dealer, at the time of making any purchase as aforesaid, shall attach a tag with a designating number thereon, legibly written in the English language, to each article purchased, and shall make an entry of such number in the book provided for in Section 852.05.~~  
(Ord. 261-1957. Passed 12-2-57.)

852.08 ~~REMOVING ARTICLES BEFORE THIRTY DAYS~~  
**852.07 RETENTION OF ARTICLES**

~~No person licensed under the provisions of this chapter shall sell or remove from his place of business any secondhand goods, articles or things sold to him until the same has been in his possession at least thirty days.~~  
(Ord. 261-1957. Passed 12-2-57.)

(a) All articles as provided in this chapter shall be retained by the purchaser thereof for at least seven days, before disposing of them, in an accessible place, in the confines where such articles were purchased or received. No article may be changed, altered, smelted or defaced

during this period. Articles may be released, prior to five days, upon inspection and approval by the Chief of Police or any police officer designated by him. The seven day waiting period may be waived by an authorized person after inspection or voluntary submittal of records to an authorized City Law Enforcement Officer.

(b) If any City Law Enforcement Officer has probable cause to believe that the item(s) described in the daily list provided for under this Chapter is stolen property, the City Law Enforcement Officer shall notify the secondhand dealer in writing, and upon receipt of such notice, the secondhand dealer shall retain such item(s) until the expiration a reasonable period of time to conduct an investigation has elapsed, such time shall not be less than thirty (30) days after the day on which the secondhand dealer is first required to make available the information required in the daily list provided for under this Chapter, unless the City Law Enforcement Officer notifies the secondhand dealer in writing that retention is not required until such expiration.

~~852.09 — PURCHASES FROM DRUNKARDS OR THIEVES~~

**852.08 PROHIBITED PURCHASES; CUSTOMERS**

~~No person licensed under the provisions of this chapter shall purchase any secondhand goods, articles or things from any person who is at the time intoxicated, from an habitual drunkard, from any person known by him to be a thief or an associate of thieves, from any receiver of stolen property or from any person he has reason to suspect to be a receiver of stolen property.~~

~~(Ord. 261-1957. Passed 12-2-57.)~~

(a) No dealer shall purchase or exchange any article from any person under eighteen years of age, from any intoxicated person or any person under the influence of drugs and/or alcohol, from any person he knows to have been convicted of a theft offense or associate of any person he knows to have been convicted of a theft offense or receiver of stolen property, from any person whom he has reason to suspect or believe to be any of the foregoing or from a senile person.

(b) Every dealer shall immediately report to the police any article or thing pledged or sold to him; or which is sought to be sold to him, if he has reason to believe that the article or thing was stolen or lost.

(c) No person shall use or provide a fictitious or false name or address, or false or fictitious information when selling or exchanging any article with a secondhand dealer.

~~852.09 — PURCHASES FROM MINORS; HOURS OF OPERATION~~

~~No person shall receive, by sale, barter, exchange or otherwise, any article mentioned in this chapter from a minor under the age of eighteen years, knowing or having reason to believe him to be such, nor from any person between the hours of 9:00 p.m. and 7:00 a.m. of the following day.~~

~~(Ord. 261-1957. Passed 12-2-57.)~~

**852.09 EXCEPTIONS.**

This chapter shall not apply to persons who deal exclusively in furniture, nor to persons who deal exclusively in secondhand automobiles. Nothing contained in this chapter shall be construed to apply to pianos, books, magazines, rugs, tapestries, burlap, paintings, drawings, etchings and engravings. **The chapter shall not apply to infrequent sales which are conducted as a yard or garage sales as defined in Chapter 1310.04 of the City of Barberton Development Code, at the residence of the seller, or sales by religious, charitable or governmental organizations.**

~~(Ord. 261-1957. Passed 12-2-57.)~~

~~852.12 — REVOCATION OF LICENSE~~

**852.10 REVOCATION OF LICENSE**

The Director of Public Safety may revoke the license of any person licensed under the provisions of this chapter who is found guilty of violating any of the provisions hereof. Any person whose

license is revoked shall not be issued another license before the expiration of one year from the date of the revocation.

(Ord. 261-1957. Passed 12-2-57.)

852.99 PENALTY.

~~Whoever violates any of the provisions of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.~~

~~(Ord. 261-1957. Passed 12-2-57.)~~

**Whoever violates any provision of this chapter or encourages another to violate any provision of this chapter, is guilty of a second degree misdemeanor, and is guilty of a first degree misdemeanor if that person has previously been convicted of any violation of this chapter. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.**

**SECTION 2.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

**SECTION 3.** That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton, and the inhabitants thereof, for the reason that we may ensure full compliance as soon as possible along with making sure that timely justice measures are in place, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed \_\_\_\_\_ 2015

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved \_\_\_\_\_ 2015

\_\_\_\_\_  
Mayor