

Meeting Date: March 10, 2015

Agenda Item

18

Memorandum No. #15-092

REQUESTED COMMISSION ACTION:

Consent
 Ordinance
 Resolution
 Consideration/
 Discussion
 Presentation

SHORT TITLE

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4220, "COMMERCIAL: OFFICE USES,"; BY AMENDING SECTION 155.4221, "COMMERCIAL: RETAIL SALES AND SERVICE USES – PERSONAL SERVICES,"; BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES,"; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

Staff is recommending text amendments to four principal uses included in the Zoning Code. First, in order to be consistent with regulations found within the Comprehensive Plan's Land Use Implementation section, Staff is recommending revisions to the limitations of Professional Offices and Banks within the multifamily districts. Second, in order to clarify the differences between Consignment Shops and Thrift Shops, Staff is recommending revised definitions for these two uses. Memo #14-548 is attached and provides an in-depth analysis regarding the definitions of Consignment Shops and Thrift Shops. The revised definitions were prepared in conjunction with the proposed text amendment to §115.17 (Secondhand Dealers). At their January 28, 2015 meeting, the Planning and Zoning Board reviewed the proposed text amendments to the four principal uses. Further, the revisions to the definitions of Consignment Shop and Thrift Shop were also reviewed by the City's Economic Development Council at their January 26, 2015 meeting. A copy of the EDC meeting minutes are attached.

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman *KBF* Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	11/25/2014	Approval	Memo #14-548 <i>[Signature]</i>
Dev. Services	12/22/2014	Approval	Memo #14-585 <i>[Signature]</i>
City Attorney	02/06/2015	Approval	Memo #2015-548 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #15-004 (02/05/2015)
X City Manager			<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration	
1 st Reading	1 st Reading	Results:	Results:
2 nd Reading			

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4220, "COMMERCIAL: OFFICE USES," TO MODIFY FLOOR AREA REQUIREMENTS FOR PROFESSIONAL OFFICES IN RM-12, RM-20, RM-30 AND RM-45 ZONING DISTRICTS; BY AMENDING SECTION 155.4221, "COMMERCIAL: RETAIL SALES AND SERVICE USES – PERSONAL SERVICES," TO MODIFY THE FLOOR AREA REQUIRED FOR BANKS AND FINANCIAL INSTITUTIONS IN MULTIFAMILY RESIDENTIAL DISTRICTS AND DELETING THE DISTINCTION OF BANKS AND FINANCIAL INSTITUTIONS BY FLOOR AREA; BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES," TO MORE STRICTLY DEFINE CONSIGNMENT SHOPS AND THRIFT SHOPS; BY AMENDING PART 5, "TERMS AND USES DEFINED," BY REVISING TERMS USED OR REFERENCED IN THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.4220., "Commercial: Office Uses," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4220. COMMERCIAL: OFFICE USES

...

B. PROFESSIONAL OFFICE

1. Districts Where Permitted

...

3. Standards

a. In the ~~Multifamily Residential (RM)~~ districts RM-12 District, a professional office use is allowed as a Special Exception only if the total gross floor area is 2,000 square feet or less.

b. In the RM-20, RM-30 and RM-45 District, a professional office use is allowed as a Special Exception only if the total gross floor area is no more than 50% of the floor area of the building.

SECTION 2. That Section 155.4221., "Commercial: Retail Sales and Service Uses – Personal Services," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4221. COMMERCIAL: RETAIL SALES AND SERVICE USES – PERSONAL SERVICES

...

C. BANK OR FINANCIAL INSTITUTION

1. Districts Where Permitted

...

2. Definition

A bank or financial institution is an establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. This use type also includes those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but does not include bail bond brokers. ~~Banks and financial institutions are distinguished between those whose total gross floor area is 2,000 square feet or less and those whose total~~

~~gross floor area exceeds 2,000 square feet.~~ Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service.

...

3. Standards

~~A bank or financial institution shall comply with the following standards:~~

~~a.——In the Multifamily Residential (RM-) districts, a bank or financial institution is allowed as a Special Exception only if the total gross floor area is 2,000 square feet or less no more than 50% of the floor area of the building.~~

...

SECTION 3. That Section 155.4222., "Commercial: Retail Sales and Service Uses – Retail Sales," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES

...

E. CONSIGNMENT SHOP

...

2. Definition

A consignment shop is a retail establishment primarily engaged in, and strictly limited to, selling ~~used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment.~~ This use does not include thrift shops or antique shops. used clothing, shoes and/or accessories for adults and/or children. The used clothing, shoes and/or accessories are sold by the operator of the consignment shop, acting as the agent for the owner of such goods, in return for a portion of the profits.

...

M. **THRIFT SHOP**

...

2. **Definition**

A thrift shop is a retail establishment ~~primarily~~ engaged in selling used personal and household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment. This use does not include consignment shops or antique shops. including, but not limited to, furniture, mattresses, books and media, small appliances, home-office equipment, and sports equipment, regardless if the items are sold on consignment or if the revenue received is retained solely by the thrift shop operator. This use also includes the sale of used clothing, shoes and/or accessories where the revenue received is retained solely by the thrift shop operator.

...

SECTION 4. That Article 9, "Definitions and Interpretations, Part 5, "Terms and Uses Defined," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

...

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

...

BANK OR FINANCIAL INSTITUTION

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. This use type also includes those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but does not include bail bond brokers. ~~Banks and financial institutions are distinguished between those whose total gross floor area is 2,000 square feet or less and those whose total gross floor area exceeds 2,000 square feet.~~ Accessory uses may include automated teller machines (ATMs) and facilities providing drive-through service.

...

CONSIGNMENT SHOP

A retail establishment ~~primarily engaged in, and strictly limited to, selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment~~ This use does not include thrift shops or antique shops. clothing, shoes and/or accessories for adults and/or children. The used clothing, shoes and/or accessories are sold by the operator of the consignment shop, acting as the agent for the owner of such goods, in return for a portion of the profits.

...

THRIFT SHOP

A retail establishment ~~primarily engaged in selling used personal and household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment. This use does not include consignment shops or antique shops. including, but not limited to, furniture, mattresses, books and media, small appliances, home-office equipment, and sports equipment, regardless if the items are sold on consignment or if the revenue received is retained solely by the thrift shop operator. This use also includes the sale of used clothing, shoes and/or accessories where the revenue received is retained solely by the thrift shop operator.~~

...

SECTION 5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2015.

PASSED SECOND READING this _____ day of _____, 2015.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

GBL/jrm
2/4/15
L:ord/ch155/2015-195



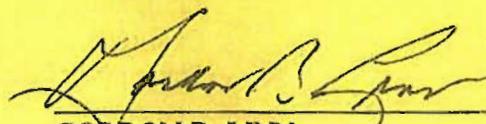
City Attorney's Communication #2015-548
February 6, 2015

TO: Karen Friedman, AICP, Planner
FROM: Gordon B. Linn, City Attorney
RE: Ordinance Amending Chapter 155, "Zoning Code"

As requested in your memorandum of January 29, 2014, Department of Development Services Memorandum No. 15-051, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4220, "COMMERCIAL: OFFICE USES," TO MODIFY FLOOR AREA REQUIREMENTS FOR PROFESSIONAL OFFICES IN RM-12, RM-20, RM-30 AND RM-45 ZONING DISTRICTS; BY AMENDING SECTION 155.4221, "COMMERCIAL: RETAIL SALES AND SERVICE USES - PERSONAL SERVICES," TO MODIFY THE FLOOR AREA REQUIRED FOR BANKS AND FINANCIAL INSTITUTIONS IN MULTIFAMILY RESIDENTIAL DISTRICTS AND DELETING THE DISTINCTION OF BANKS AND FINANCIAL INSTITUTIONS BY FLOOR AREA; BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES - RETAIL SALES," TO MORE STRICTLY DEFINE CONSIGNMENT SHOPS AND THRIFT SHOPS; BY AMENDING PART 5, "TERMS AND USES DEFINED," BY REVISING TERMS USED OR REFERENCED IN THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please carefully review the ordinance to ensure that it meets with your requirements.



GORDON B. LINN

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY
MEMORANDUM #15-004**

DATE: February 5, 201~~4~~⁵
TO: City Commission
FROM: Planning and Zoning Board/ Local Planning Agency
SUBJECT: Proposed Text Amendments to Zoning Code
Consignment Shops, Thrift Shops, and Pawnbroking

At the meeting of the Planning and Zoning Board/ Local Planning Agency held on January 28, 2015, the Board considered proposed text amendments to the Zoning Code regarding revisions to standards in the Consignment Shops, Thrift Shops, and Pawnbroking as set forth in the Department of Development Services Administrative Report 14-585.

Specifically, staff prepared text amendments to the definitions of Consignment Shop and Thrift Shop:

- Revise definition of Consignment Shop to clarify that this use is solely for the sale of used clothing, shoes and/or accessories. Further, the definition should include that the operator of the shop only receives a percentage of the profit.
- Revise definition of Thrift Store to clarify that this use is for the sale of used clothing, shoes and/or accessories where the revenue received from selling same is retained by shop. Revise definition to further clarify that this use is for the sale of other personal and household items, including furniture and mattresses regardless if the revenue received from selling same is retained by shop or is sold on consignment.

Staff also recommends revisions to §115.17 (Secondhand Dealers; Secondary Metals Recyclers):

- Revise §115.17 to require applicants to submit copy of valid state license or proof of registration for both Secondhand Dealers and Pawnbrokers.

With a six to one vote for the approval of the amendment, Richard Klosiewicz casting the dissenting vote, it is the recommendation of the Board that the text amendments be approved.



Jim Beeson
Chairman
Planning and Zoning Board/ Local Planning Agency

Pompano Beach Economic Development Council

Commission Chambers Conference Room
January 26th, 2015
5:15 p.m.

MINUTES

H. New Business

- Zoning Text Amendments (consign vs thrift)

Chris Clemens said that there is very little distinction between consignment stores and thrift stores based on the definitions within the Pompano Beach Zoning Code. He said that one of the current consignment stores located on Atlantic Blvd, Nifty Thrift Consignment Store, is operating more like a thrift store than a consignment store. Consignment stores have more valuable type items that the owner may want a return on the items. Based on the regulations there is not much that can be done about how it is currently written. Karen Friedman did a good job researching how other cities define consignment stores and thrift stores. Mr. Clemens mentioned that he just approved a zoning certificate for a consignment store on US-1 that wants to sell kayaks, fishing boards, etc. Those type of operations would be limited to a special exception in B-3 zoning districts but would be more desirable in B-4 zoning districts. Robin is looking for support on clarification between the two.

Paul Webb mentioned that he is on the ZBA Advisory Board and finds a real interest in this topic. He explained to the Committee that when someone wants to do something that is not allowed under the code that person has to come to the ZBA for a special exception. He noticed that there are a few consignment stores in Ft. Lauderdale that sells fishing goods. The way Pompano's ordinance reads is that the only thing that is allowed on consignment is shoes and clothes. So if they are trying to keep these type of businesses out of Pompano Beach, then those that are want to open a consignment store selling used fishing equipment will have to come to the ZBA to prove the hardship to get a variance which they will not be able to get.

Tom DiGiorgio said that he understands that there is something that Pompano is trying to keep out of the B-3 zoning district based on how the code is written however; he is not sure what it is. Mr. Webb said that the one thing that they are trying to stop is the dumping at the sites. Mr. Clemens mentioned that from the best of his knowledge that is what he believes they are trying to do.

Rob Wyre asked if they should require consignment stores to provide some sort of record of the fact of who the items belong to. Is there a way to enforce consignment stores? Mr. Clemens said that he is sure that they can ask for some sort of paper work when they apply.

Mr. Webb said that both consignment stores and thrift stores are both retail with one being high-end and the other low-end. Are we that critical in telling them that they cannot have a low-end store in the City of Pompano? If the issue is the dumping then they should address that particular issue.

Joe Usman said that the only times those stores come into the City is when they do not have a demand of regular stores and the rent market is very low. If they are able to increase the market of the area, that issue will not arise. Nifty Thrifty came in because the rent was so low and that is what attracted them.

Elaine Fitzgerald said that she agrees that they shouldn't dictate what stores can and cannot be allowed here and if the market allows for a thrift store why should they say no. Roy Rogers agreed.

Whitney Rawls said with the amount of development that is being proposed on MLK Blvd. and being that consignment shops offer a lot of high-end merchandise, he believes that we should not restrict them to only sell clothes, shoes, and accessories.

Whitney Metevia said that the way the ordinance is trying to define consignment is not the true definition of consignment. It states in the code that we are only going to allow consignment shops to sell these types of things; we are not defining what a consignment shop actually is. They are doing this to prevent something. She agrees with everyone else. She said that this is not defining a consignment shop it is defining what a consignment shop can't sell.

Mr. DiGiorgio said that if they do not take action this may get approved as it is written. They will have Robin Bird come back to them explaining his point of view and will recommend to him not to send it to Commission until he they can discuss it further.



MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 14-585

DATE: December 22, 2014

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services *RB*

FROM: Karen Friedman, AICP, Planner *KBF*

RE: Text Amendments to Zoning Code and Chapter 115
Consignment Shops, Thrift Shops, and Pawnbroking

Staff is recommending revisions to the Zoning Code regarding Consignment Shops and Thrift Shops. The revisions are directly impacted by a related revision to Ch 115, Miscellaneous Businesses. An explanation of the revisions is below.

Background

The Zoning Code's definitions of Consignment Shop and Thrift Shop include very little distinction. However the Zoning Code standards regarding these uses are not the same, as the impacts of these two uses are distinctly different. Consignment Shops generally function as new merchandise retail stores and tend to focus on one or two specialty items. Thrift Shops, however, sell a variety of merchandise often quite below market value. Further Thrift Shops often have merchandise left onsite within or outside of a donation bin or an outdoor area. It is not uncommon for donated merchandise to be left outside a Thrift Shop for extended periods creating an unsightly appearance.

Therefore Consignment Shops are permitted in B-3. Whereas Thrift Shops are only permitted as a Special Exception in B-3 and in order to qualify for the Special Exception the Thrift Shop must be a minimum of 12,000 square feet of total gross floor area and operated by a single tenant.

In order to develop more distinct definitions, Staff researched state regulations of these uses and various Florida municipal regulations of these uses. Memo #14-548 (*copy attached*) presents the results of the research. Based on the research, Staff is recommending revisions to the definitions of Consignment Shop and Thrift Shop. Further, Staff concurrently recommends revisions to §115.17 (Secondhand Dealers; Secondary Metals Recyclers).

Staff's Recommendation

Below is an explanation of Staff's recommendations:

- Revise definition of Consignment Shop to clarify that this use is solely for the sale of used clothing, shoes and/or accessories. Further, the definition should include that the operator of the shop only receives a percentage of the profit.
- Revise definition of Thrift Store to clarify that this use is for the sale of used clothing, shoes and/or accessories where the revenue received from selling same is retained by shop. Revise definition to further clarify that this use is for the sale of other personal and household items,

including furniture and mattresses regardless if the revenue received from selling same is retained by shop or is sold on consignment.

- Revise §115.17 to require applicants to submit copy of valid state license or proof of registration for both Secondhand Dealers and Pawnbrokers.

Staff's Request

The proposed revisions to §115.17 (Secondhand Dealers; Secondary Metals Recyclers) are being presented to this Board as a courtesy. However, Staff is seeking a positive endorsement of the proposed revisions to §115.17.

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

CHAPTER 115: MISCELLANEOUS BUSINESSES

§ 115.17 SECONDHAND DEALERS; SECONDARY METALS RECYCLERS; PAWNBROKERS.

(A) The city hereby adopts the procedure set forth in F.S. Ch. 538 titled Secondhand Dealers and Secondary Metals Recyclers and in F.S. Ch 539 titled "Florida Pawnbroking Act" in its their entirety as hereby enacted or amended from time to time provided, however, that the following restrictions shall apply in the city to the secondhand dealers ~~and~~, secondary metals recyclers, and pawnbrokers as defined in the statute.

- (1) The term **SECONDHAND DEALER** is expanded to include any secondhand dealer as defined in state statute whether or not located in a fixed place of business.
- (2) In addition to record keeping requirements as mandated by state statute, a secondhand dealer or pawnbroker shall also deliver and conform their record keeping to their local law enforcement agency to include:
 - (a) The amount of money paid or loaned by the dealer or pawnbroker for the item.
 - (b) No entry made in the record shall be erased, obliterated or defaced.
- (3) A secondhand dealer, pawnbroker, or any employee thereof shall not have a secondhand store or pawnshop open or engage in or conduct business as a secondhand dealer or pawnbroker between the hours of 8:00 p.m. and 8:00 a.m.
- (4) An original right thumbprint of the seller shall be affixed to all forms indicating a transaction of secondhand goods as required by state statute to be delivered to the City Police Department City's Business Tax Receipt Division. The thumbprint can only be used to identify the person whose name appears on the record when probable cause exists that the secondhand goods are stolen.
- (5) A copy of a valid license from the Florida Department of Revenue or the Florida Department of Agriculture and Consumer Services, as applicable, shall be necessary before any Zoning Use Certificate and/or business tax receipt shall be approved for any secondhand dealer or pawnbroker.

CHAPTER 155: ZONING CODE

Article 4: Use Standards

Part 2: Principal Uses and Structures

155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES - RETAIL SALES

E. Consignment Shop

2. Definition

A consignment shop is a retail establishment primarily engaged in, and strictly limited to, selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment. This use does not include thrift shops or antique shops. used clothing, shoes and/or accessories for adults and/or children. The used clothing, shoes and/or accessories are sold by the operator of the consignment shop, acting as the agent for the owner of such goods, in return for a portion of the profits.

M. Thrift Shop

2. Definition

A thrift shop is a retail establishment primarily engaged in selling used personal and household goods and merchandise including, but not limited to, furniture, mattresses, books and media, small appliances, home-office equipment, and sports equipment, regardless if the items are sold on consignment or if the revenue received is retained solely by the thrift shop operator. (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment. This use does not include consignment shops or antique shops. This use also includes the sale of used clothing, shoes and/or accessories where the revenue received is retained solely by the thrift shop operator.

Article 9: Definitions and Interpretation

Part 5: Terms and Uses Defined

Consignment Shop

A retail establishment primarily engaged in, and strictly limited to, selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment. This use does not include thrift shops or antique shops. used clothing, shoes and/or accessories for adults and/or children. The used clothing, shoes and/or accessories are sold by the operator of the consignment shop, acting as the agent for the owner of such goods, in return for a portion of the profits.

Thrift Shop

A retail establishment primarily engaged in selling used personal and household goods and merchandise including, but not limited to, furniture, mattresses, books and media, small appliances, home-office equipment, and sports equipment, regardless if the items are sold on consignment or if the revenue received is retained solely by the thrift shop operator. (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment. This use does not include consignment shops or antique shops. This use also includes the sale of used clothing, shoes and/or accessories where the revenue received is retained solely by the thrift shop operator.



MEMORANDUM

Development Services

MEMORANDUM NO. 14-548

DATE: November 25, 2014

TO: Robin M. Bird, Director of Development Services

FROM: Karen Friedman, AICP, Planner *KBF*

SUBJECT: Analysis and Recommendations
Regulations of Consignment Stores and Thrift Stores

The Zoning Code's definitions of Consignment Store and Thrift Shop include very little distinction. This memo provides an overview and analysis of the city's existing regulations of these uses, the state regulations of these uses, and various Florida municipal regulations of these uses.

Based on the below overview and analysis, Staff recommends the following revisions:

- Revise definition of Consignment Shop to clarify that this use is solely for the sale of used clothing, shoes and/or accessories. Further, the definition should include that the operator of the shop only receives a percentage of the profit.
- Revise definition of Thrift Store to clarify that this use is for the sale of used clothing, shoes and/or accessories where the revenue received from selling same is retained by shop. Revise definition to further clarify that this use is for the sale of other personal and household items, including furniture and mattresses regardless if the revenue received from selling same is retained by shop or is sold on consignment.
- Revise §115.17 to require applicants to submit copy of valid state license or proof of registration for both Secondhand Dealers and Pawnbrokers.

OVERVIEW AND ANALYSIS

Pompano Beach Zoning Code Regulations

By right, the Zoning Code permits the sale of used goods for the following uses:

Use	Definition	Permitted Districts
155.4222.A Antique Store	An establishment primarily engaged in selling antiques—i.e., a work of art, piece of furniture, decorative object, collectible object, or other item having special value because of its age, rarity, and/or association with a past era.	B-1, B-2, B-3, and B-4
155.4222.E Consignment Shop	A retail establishment primarily engaged in selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment.	B-3 and B-4

155.4222.I Flea Market	A market held in an area that is not totally and permanently enclosed or that is located within a structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. The use does not include a farmers' market, where food items predominate, or a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.	SE in B-4
155.4222.L Pawn Shop	A business that advances funds to a person on the security of pledged tangible personal property on condition that the pledged property is left in the possession of the pawnbroker until redeemed by the pledger within an established default time period, after which title in unredeemed property vests in the pawnbroker, who may then sell the property.	B-4
155.4222.M Thrift Shop	A retail establishment primarily engaged in selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment.	SE in B-3 if minimum of 12,000 sq ft gfa and operated by a single tenant Permitted in B-4.

ANALYSIS:

The only distinction the zoning code makes between a consignment shop and a thrift store is that items are sold on consignment. However, the Zoning Code does not clarify how a business owner can demonstrate that they are, in fact, selling items on consignment.

Pompano Beach Business Regulations

In addition to the regulations in the Zoning Code, Chapter 115, Miscellaneous Business, includes the following regulations for Secondhand Dealers:

§ 115.17 SECONDHAND DEALERS; SECONDARY METALS RECYCLERS.

(A) The city hereby adopts the procedure set forth in F.S. Ch. 538 titled Secondhand Dealers and Secondary Metals Recyclers in its entirety as hereby enacted or amended from time to time provided, however, that the following restrictions shall apply in the city to the secondhand dealers and secondary metals recyclers as defined in the statute.

(1) The term **SECONDHAND DEALER** is expanded to include any secondhand dealer as defined in state statute whether or not located in a fixed place of business.

(2) In addition to record keeping requirements as mandated by state statute, a secondhand dealer shall also deliver and conform their record keeping to their local law enforcement agency to include:

- (a) The amount of money paid or loaned by the dealer for the item.
- (b) No entry made in the record shall be erased, obliterated or defaced.

(3) A secondhand dealer or any employee thereof shall not have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 8:00 p.m. and 8:00 a.m.

(4) An original right thumbprint of the seller shall be affixed to all forms indicating a transaction of secondhand goods as required by state statute to be delivered to the City Police Department. The thumbprint can only be used to identify the person whose name appears on the record when probable cause exists that the secondhand goods are stolen.

ANALYSIS:

The regulations within §115.17 refer back to state statutes regarding secondhand dealers. They do not include any enforcement or revocation provisions. Further they do not require a dealer to provide proof they have received the required state license.

Florida State Statutes 538

Florida Statutes Chapter 538 regulates Secondhand Dealers and Secondary Metals Recyclers. **A copy of Ch 538 is attached.** The following definitions are provided for in this Chapter:

- (c) "Consignment shop" means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.
- (g) "Secondhand dealer" means any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to part II and which is engaged in the business of purchasing, consigning, or trading secondhand goods.
- (h) "Secondhand goods" means personal property previously owned or used, which is not regulated metals property regulated under part II and which is purchased, consigned, or traded as used property. Such secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

However Ch 538 does not regulate all sales of secondhand goods. Specifically excluded from the regulations included in Ch 538 are the following (see attachment for fullest of exclusions):

- Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to the provisions of part II.
- Any person accepting a secondhand good as a trade-in for a similar item of greater value.
- Any business that is registered with the Department of Revenue for sales tax purposes as an antique dealer (additional standards apply).
- A business that contracts with other persons or entities to offer its secondhand goods for sale, purchase, consignment, or trade via an Internet website (additional standards apply)
- Any person offering his or her own personal property for sale, purchase, consignment, or trade via an Internet website, or a person or entity offering the personal property of others for sale, purchase, consignment, or trade via an Internet website, when that person or entity does not have, and is not required to have, a local occupational or business license for this purpose.
- A business whose primary business is the sale, rental, or trade of motion picture videos or video games (additional standards apply)
- A motor vehicle dealer as defined in s. 320.27.

Per Section 538.09(1), Secondhand Dealers are required to register with the Department of Revenue prior to engaging in business at any location. In order to register, the applicant must undergo a background investigation and must submit finger prints. The registration must be renewed annually. **A copy of the registration application is attached.** According to Department of Revenue's website, Broward County has the 2nd most registered Secondhand Dealers in the state (441). Miami-Dade County has 443 and Palm Beach County has 424 registered dealers. **The full list of number of dealers by county is attached.**

Finally, Section 538.17 specifically allows local municipalities to enact more restrictive regulations.

Pawnbrokers are separately regulated under Florida States Ch. 539.001, also known as the Florida Pawnbroking Act. As with Secondhand Dealers, Pawnbrokers are also required to obtain an annual license prior to establishing their business. The Pawnbroker license is granted by the Department of Agriculture and Consumer Services. *A copy of the Pawnshop registration application is attached.*

ANALYSIS:

State regulations of Secondhand Dealers specifically exclude registered nonprofits as well as stores selling office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. However dealers that sell home furniture, including mattresses, would be required to comply with state regulations. Further, while Ch. 538 does provide a separate definition for Consignment Shop, the registration form does not require an applicant to indicate if they are a Consignment Shop. Regardless, Staff strongly recommends the City's § 115.17 be revised to require both secondhand dealers and pawnshop operators to provide proof of state license or registration prior to issuance of a Business Tax Receipt.

Municipal Definitions of Consignment Stores and Thrift Shops

Staff researched many cities' code of ordinances for regulations of Consignment Stores and Thrift Stores. As previously mentioned, the only difference between Pompano Beach's definition for Consignment Shop and Thrift Store is that goods are sold on consignment. The following table compares definitions used by other Florida municipalities:

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City	Definition of Consignment Shop	Definition of Thrift Shop
Pompano Beach	Consignment Shop. A retail establishment primarily engaged in selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where all such goods and merchandise are sold on consignment.	Thrift Store. A retail establishment primarily engaged in selling used household goods and merchandise (e.g., clothing, furniture, books, shoes, small appliances), where such goods and merchandise are not sold on consignment.
Dania Beach	Consignment store or shop. A business establishment in which secondhand merchandise is offered for sale; such merchandise is placed for sale with the business establishment by the owner of the item of merchandise and upon sale of the item the purchase price is divided between the business establishment owner and the owner of the item.	Charity or thrift shop. A shop in which the items sold (or given away to the needy) have been obtained through donations or gifts and where the donor receives no value upon the sale (or gift) of such merchandise to a thrift shop customer, and where the use is designed to sell donated merchandise at a price below reasonable market value, or where the revenue received from selling same is retained by a charitable or not-for-profit organization or institution.
Hallandale Beach	Consignment shop means an establishment wherein goods such as clothing, shoes and/or accessories for adults and/or children are sold by the operator of the shop, acting as the agent for the owner of such goods, in return for a percentage of the profits, or other consideration. Such goods may be comprised of used goods and/or new goods. As used within this definition, "used goods" shall be limited to wearing apparel and accessories to such apparel, which are clean and not stained, abraded or worn out in any area, and which (but for the sole fact that the item was previously owned) are generally merchantable as first quality merchandise.	None.
Hollywood	Consignment Store or Shop. A business establishment in which secondhand merchandise is offered for sale; such merchandise is placed for sale with the business establishment by the owner of the item of merchandise and upon sale of the item the purchase price is divided between the business establishment owner and the owner of the item.	Thrift Shop. A shop in which the items sold (or given away to the needy) have been obtained through donations or gifts and where the donor receives no value upon the sale (or gift) of such merchandise to a thrift shop customer, and where the use is designed to sell donated merchandise at a price below reasonable market value, or where the revenue received from selling same is retained by a charitable or not-for-profit organization or institution.
North Miami	Consignment shop means an establishment wherein goods limited to clothing, shoes and/or accessories for adults and/or children are sold by the operator of the shop, acting as the agent for the owner of such goods, in return for a percentage of the profits, or other consideration. Such goods	Thrift store or resale shop means an establishment wherein secondhand articles are sold, such as clothing, shoes, accessories, furniture and other assorted items, the value of which is only a fraction of the original cost, for which price guides are not available, and which normally have no

	may be comprised of a combination of used goods and new goods, or of used goods only.	collectible or antique value. This term shall not apply to businesses which sell primarily new goods, and which may occasionally sell secondhand articles as a result of trade-ins, or unclaimed merchandise.
Parkland	Consignment store means stores which sell non-donated items such as art work, used musical instruments, antiques, or a particular class of items that could be fairly characterized as vintage due to their association with a particular time in history or period of production or other luxury items whether new or used; provided that a pawn shop as defined in F.S. § 539.001 shall not be considered a consignment store.	None
Plantation	Resale boutique. A business engaged in the purchasing, selling, and consigning of qualified, previously owned or used merchandise which is not "second-hand goods" as defined in section 538.03, Florida Statutes (1991), as same may be amended, and which principally deals with buying and selling only one specific type or category of tangible personal property which is not identified as an item of extra value within the definition of "second-hand dealer" in section 14-91 of this Code, as amended, or which is subject to state certificate of title laws where the item is registered and a certificate of title is issued to identify ownership. A resale boutique shall not be defined to include the business of a "secondary dealer" as defined in section 4-91 of this Code of Ordinances, as same may be amended, or a "second-hand dealer" as defined in section 538.03, Florida Statutes (1991), as amended. As used within this definition, "qualified, previously owned or used merchandise" shall be limited to wearing apparel and accessories thereto, which are clean and not stained, abraded, torn, or worn out in any area, and which (but for the sole fact that the item was previously owned) are generally merchantable as "first quality" merchandise. Whenever in this chapter a use is defined sufficiently broad arguably to include the sale of previously owned items, such as "wearing apparel stores," but where the usual and customary connotation of such use would be for the sale of new and unused merchandise, then such use shall not be deemed to include the sale or consignment of previously owned or used merchandise.	Thrift shop. A shop wherein the items sold (or given away to the needy) have been obtained through donations or gifts and where the donor receives no value upon the sale (or gift) of such merchandise to a thrift shop customer, where the use is designed to sell donated merchandise at a price below reasonable market value, and where the revenue received from selling same is retained by a charitable, not-for-profit, or religious organization or institution. The term "resale boutique," as used in this chapter, shall not be deemed to include "thrift shops."
Boynton Beach	MERCHANDISE, USED (OTHER) - An establishment primarily engaged in the sale of used merchandise, such as a clothing or book store. "Merchandise used (other)" may also include any of the following types of establishments: (1) secondhand sales of personal items resold through a broker (consignment); (2) loaning money on the security of pledges of personal property (pawnshop); or (3) merchandise principally donated (thrift store). This classification does not include the sale of secondhand motor vehicles or parts.	

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ANALYSIS:

- Neither Parkland nor Hallandale Beach defines "Thrift Store".
- Boynton Beach groups thrift stores and consignment stores together into one term, "Other Used Merchandise".
- Dania Beach and Hollywood use the same definition for Consignment Shop. The definition includes the following components: the items sold are secondhand; and that the purchase price is divided between the business establishment owner and the owner of the item.
- Hallandale Beach and North Miami use the same definition for Consignment Shop. The definition includes the following components: the goods sold include clothing, shoes and/or accessories; and the operator of the shop receives a percentage of the profit.
- Plantation has a use called "Resale Boutique". Though a bit convoluted, the intent of this use is for the resale of wearing apparel and accessories thereto. Therefore it is similar to the definition used by Hallandale Beach et al.
- Dania Beach, Hollywood and Plantation use a similar definition for Thrift Store. The definition includes the following components: the items sold have been obtained through donations; the donor receives no value from the sale; the goods are sold below the market value; and the revenue is retained by a nonprofit.
- North Miami's definition of Thrift Store includes the sale of used items including clothing, shoes, accessories, furniture and other assorted items. Unlike the definition used by Dania Beach et al..., this definition does not require the goods to have been donated or the store to be operated by a nonprofit.

Additional Municipal Regulations of Consignment Stores and Thrift Shops

While many cities throughout Florida require secondhand dealers to provide proof of a valid state registration in order to obtain a Business Tax Receipt, only a handful have specific use standards for wither consignment shops or thrift stores. Below is a list of three cities that require mandatory distance separation.

City	Separation Required
Dania Beach	Thrift Store – 2,500 feet from similar use from property line to property line.
Boynton Beach	Other Used Merchandise – 2,400 feet from another similar use.
North Miami	Consignment Shops – 600 feet between similar use.

The City of Boca Raton also requires Consignment Shops to furnish proof that they have a \$10,000 surety bond. *A copy of Boca Raton's regulations is attached.*

ANALYSIS:

Besides requiring proof of state license, there are consistent standards used in Florida.

STAFF RECOMMENDATIONS

Based on the analysis contained in this memo staff is recommending the following:

- Revise definition of Consignment Shop to clarify that this use is solely for the sale of used clothing, shoes and/or accessories. Further, the definition should include that the operator of the shop only receives a percentage of the profit. This is consistent with Hallandale Beach, North Miami and Plantation.

- Revise definition of Thrift Store to clarify that this use is for the sale of used clothing, shoes and/or accessories where the revenue received from selling same is retained by shop. Revise definition to further clarify that this use is for the sale of other personal and household items, including furniture and mattresses regardless if the revenue received from selling same is retained by shop or is sold on consignment.
- Revise §115.17 to require applicants to submit copy of valid state license or proof of registration for both Secondhand Dealers and Pawnbrokers.

working within that respective county or municipality. This paragraph does not limit the authority or duties of the sheriff.

(c) "Consignment shop" means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

(d) "Department" means the Department of Revenue.

(e) "Precious metals" means any item containing any gold, silver, or platinum, or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

(f) "Precious metals dealer" means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

(g) "Secondhand dealer" means any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to part II and which is engaged in the business of purchasing, consigning, or trading secondhand goods.

(h) "Secondhand goods" means personal property previously owned or used, which is not regulated metals property regulated under part II and which is purchased, consigned, or traded as used property. Such secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

(i) "Secondhand store" means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business.

(j) "Transaction" means any purchase, consignment, or trade of secondhand goods by a secondhand dealer.

(2) This chapter does not apply to:

(a) Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to the provisions of part II.

(b) A law enforcement officer acting in an official capacity.

(c) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(d) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(e) A sale on the execution, or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

(f) Any garage sale operator who holds garage sales less than 10 weekends per year.

(g) Any person at antique, coin, or collectible shows or sales.

(h) Any person who sells household personal property as an agent for the property owner or their representative pursuant to a written agreement at that person's residence.

(i) The purchase, consignment, or trade of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this chapter.

(j) Any person accepting a secondhand good as a trade-in for a similar item of greater value.

(k) Any auction business as defined in s. 468.382 operating as an auction business in the buying and selling of estates, business inventory, surplus merchandise, or business liquidations.

(l) Any business that is registered with the Department of Revenue for sales tax purposes as an antique dealer pursuant to chapter 212 and that purchases secondhand goods from the property owner or her or his representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.

(m) A business that contracts with other persons or entities to offer its secondhand goods for sale, purchase, consignment, or trade via an Internet website, and that maintains a shop, store, or other business premises for this purpose, if all of the following apply:

1. The secondhand goods must be available on the website for viewing by the public at no charge;
2. The records of the sale, purchase, consignment, or trade must be maintained for at least 2 years;
3. The records of the sale, purchase, consignment, or trade, and the description of the secondhand goods as listed on the website, must contain the serial number of each item, if any;
4. The secondhand goods listed on the website must be searchable based upon the state or zip code;
5. The business must provide the appropriate law enforcement official with the name or names under which it conducts business on the website;
6. The business must allow the appropriate law enforcement official to inspect its business premises at any time during normal business hours;

7. Any payment by the business resulting from such a sale, purchase, consignment, or trade must be made to the person or entity with whom the business contracted to offer the goods and must be made by check or via a money services business licensed under part II of chapter 560; and

8.a. At least 48 hours after the estimated time of contracting to offer the secondhand goods, the business must verify that any item having a serial number is not stolen property by entering the serial number of the item into the Department of Law Enforcement's stolen article database located at the Florida Crime Information Center's public access system website. The business shall record the date and time of such verification on the contract covering the goods. If such verification reveals that an item is stolen property, the business shall immediately remove the item from any website on which it is being offered and notify the appropriate law enforcement official; or

b. The business must provide the appropriate law enforcement official with an electronic copy of the name, address, phone number, driver license number, and issuing state of the person with whom the business contracted to offer the goods, as well as an accurate description of the goods, including make, model, serial number, and any other unique identifying marks, numbers, names, or letters that may be on an item, in a format agreed upon by the business and the appropriate law enforcement official. This information must be provided to the appropriate law enforcement official within 24 hours after entering into the contract unless other arrangements are made between the business and the law enforcement official.

(n) Any person offering his or her own personal property for sale, purchase, consignment, or trade via an Internet website, or a person or entity offering the personal property of others for sale, purchase, consignment, or trade via an Internet website, when that person or entity does not have, and is not required to have, a local occupational or business license for this purpose.

(o) A business whose primary business is the sale, rental, or trade of motion picture videos or video games, if the business:

1. Requires the sellers of secondhand goods to have a current account with the business;

2. Has on file in a readily accessible format the name, current residential address, home and work telephone numbers, government-issued identification number, place of employment, date of birth, gender, and right thumbprint of each seller of secondhand goods;

3. Purchases secondhand goods from the property owner or his or her representative at the place of business pursuant to an agreement in writing and signed by the property owner which describes the property purchased, states the date and time of the purchase, and states that the seller is the lawful owner of the property;

4. Retains such purchase agreements for not less than 1 year; and

5. Pays for the purchased property in the form of a store credit that is issued to the seller and is redeemable solely by the seller or another authorized user of the seller's account with that business.

(p) A motor vehicle dealer as defined in s. 320.27.

(3) This part does not apply to secondary metals recyclers regulated under part II, except for s. 538.11, which applies to both secondhand dealers and secondary metals recyclers.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 1, ch. 90-318; s. 4, ch. 91-429; s. 202, ch. 92-303; s. 1, ch. 93-97; s. 1, ch. 95-287; s. 745, ch. 97-103; s. 1, ch. 98-30; ss. 17, 21, ch. 2000-138; s. 1, ch. 2006-201; s. 51, ch. 2008-177; s. 1, ch. 2009-158; s. 1, ch. 2009-162; s. 1, ch. 2012-179.

538.04 Recordkeeping requirements; penalties.—

(1) A secondhand dealer shall complete a secondhand dealers transaction form at the time of the actual transaction. A secondhand dealer shall maintain a copy of a completed transaction form on the registered premises for at least 1 year after the date of the transaction. However, the secondhand dealer shall maintain a copy of the transaction form for not less than 3 years. Unless other arrangements are agreed upon by the secondhand dealer and the appropriate law enforcement official, the secondhand dealer shall, within 24 hours after acquiring any secondhand goods, deliver to such official a record of the transaction on a form approved by the Department of Law Enforcement. Such record shall contain:

(a) The time, date, and place of the transaction.

(b) A complete and accurate description of the goods acquired, including the following information, if applicable:

1. Brand name.

2. Model number.

3. Manufacturer's serial number.

4. Size.

5. Color, as apparent to the untrained eye.

6. Precious metal type, weight, and content if known.

7. Gemstone description, including the number of stones, if applicable.

8. In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length, and finish.

9. Any other unique identifying marks, numbers, or letters.

(c) A description of the person from whom the goods were acquired, including:

1. Full name, current residential address, workplace, and home and work phone numbers.

2. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.

3. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired.

(d) Any other information required by the form approved by the Department of Law Enforcement.

(2) The secondhand dealer shall require verification of the identification by the exhibition of a government-issued photographic identification card such as a driver license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.

(3) The seller shall sign a statement verifying that the seller is the rightful owner of the goods or is entitled to sell, consign, or trade the goods.

(4) Any person who knowingly gives false verification of ownership or who gives a false or altered identification, and who receives money from a secondhand dealer for goods sold, consigned, or traded commits:

(a) If the value of the money received is less than \$300, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the value of the money received is \$300 or more, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Secondhand dealers are exempt from the provisions of this section for all transactions involving secondhand sports equipment except secondhand sports equipment that is permanently labeled with a serial number.

(6) If the appropriate law enforcement official supplies a secondhand dealer with appropriate software and the secondhand dealer has computer capability, the secondhand dealer must electronically transmit secondhand dealer transactions required by this section to such official. If a secondhand dealer does not have computer capability, the appropriate law enforcement official may provide the secondhand dealer with a computer and all equipment necessary to electronically transmit secondhand dealer transactions. The appropriate law enforcement official shall retain ownership of the computer, unless otherwise agreed upon, and the secondhand dealer shall maintain the computer in good working order, except for ordinary wear. A secondhand dealer who transmits secondhand dealer transactions electronically is not required to also deliver the original or paper copies of the secondhand transaction forms to the appropriate law enforcement official. However, such official may, for purposes of a criminal investigation, request the secondhand dealer to deliver the original transaction form that was electronically transmitted. The secondhand dealer shall deliver the form to the appropriate law enforcement official within 24 hours after receipt of the request.

(7) If the original transaction form is lost or destroyed by the appropriate law enforcement official, a copy may be used by the secondhand dealer as evidence in court. When an electronic image of a customer's identification is accepted for a transaction, the secondhand dealer must maintain the electronic image in order to meet the recordkeeping requirements applicable to the original transaction form. If a criminal investigation occurs, the secondhand dealer shall, upon request, provide a clear and legible copy of the image to the appropriate law enforcement official.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 2, ch. 90-318; s. 4, ch. 91-429; s. 2, ch. 98-30; s. 2, ch. 2006-201; s. 2, ch. 2012-179.

538.05 Inspection of records and premises of secondhand dealers.—

(1) The entire registered premises and required records of each secondhand dealer are subject to inspection during regular business hours by any law enforcement officer having jurisdiction.

(2) The inspection authorized by subsection (1) shall consist of an examination on the registered premises of the inventory and required records to determine whether the records and inventory are being maintained on the registered premises as required by s. 538.04 and whether the holding period required by s. 538.06 is being complied with.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 3, ch. 90-318; s. 4, ch. 91-429; s. 2, ch. 93-97; s. 3, ch. 2006-201.

538.06 Holding period.--

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, use, or in any way dispose of any secondhand goods within 15 calendar days of the date of acquisition of the goods. Such holding periods are not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer must maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer to accept title or any other form of security in secondhand goods in lieu of actual physical possession. A secondhand dealer who accepts title or any other form of security in secondhand goods in lieu of actual physical possession commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may place a 90-day written hold order on the goods. However, the hold may be extended beyond 90 days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) While a hold order is in effect, the secondhand dealer must, upon request, release the property subject to the hold order to the custody of a law enforcement officer with jurisdiction for use in a criminal investigation. The release of the property to the custody of the law enforcement officer is not considered a waiver or release of the secondhand dealer's rights or interest in the property. Upon completion of the criminal proceeding, the property must be returned to the secondhand dealer unless the court orders other disposition. When such other disposition is ordered, the court shall additionally order the person from whom the secondhand dealer acquired the property to pay restitution to the secondhand dealer in the amount that the secondhand dealer paid for the property together with reasonable attorney's fees and costs.

(5) All dealers in secondhand property regulated by this chapter shall maintain transaction records for 3 years.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 90-318; s. 4, ch. 91-429; s. 3, ch. 93-97; s. 2, ch. 95-287; s. 21, ch. 2000-138; s. 4, ch. 2006-201.

538.07 Penalty for violation of chapter.—

(1) Except where otherwise provided herein, a person who knowingly violates any provision of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not to exceed \$10,000.

(2) When the lawful owner recovers stolen property from a secondhand dealer and the person who sold or pledged the stolen property to the secondhand dealer is convicted of theft, a violation of this section, or dealing in stolen property, the court shall order the defendant to make restitution to the secondhand dealer or the lawful owner, as applicable, pursuant to s. 775.089.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 3, ch. 93-37; s. 5, ch. 2006-201.

538.08 Stolen goods; petition for return.—

(1) If the secondhand dealer contests the identification or ownership of the property, the person alleging ownership of the property may, provided that a timely report of the theft of the goods was

made to the proper authorities, bring an action for replevin in the county or circuit court by petition in substantially the following form:

Plaintiff A. B. sues defendant C. D., and alleges:

1. This is an action to recover possession of personal property in County, Florida.
2. The description of the property is: (list property) . To the best of plaintiff's knowledge, information, and belief, the value of the property is \$.
3. Plaintiff is entitled to the possession of the property under a security agreement dated , (year) , a copy of which is attached.
4. To plaintiff's best knowledge, information, and belief, the property is located at .
5. The property is wrongfully detained by defendant. Defendant came into possession of the property by (describe method of possession) . To plaintiff's best knowledge, information, and belief, defendant detains the property because (give reasons) .
6. The property has not been taken under an execution or attachment against plaintiff's property.

(2) The filing fees shall be waived by the clerk of the court, and the service fees shall be waived by the sheriff. The court shall award the prevailing party attorney's fees and costs. In addition, when the filing party prevails in the replevin action, the court shall order payment of filing fees to the clerk and service fees to the sheriff.

(3) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. Upon the receipt of a petition for a writ by a secondhand dealer, the dealer shall hold the property at issue until the court determines the respective interests of the parties.

(4) In addition to the civil petition for return remedy, the state may file a motion as part of a pending criminal case related to the property. The criminal court has jurisdiction to determine ownership, to order return or other disposition of the property, and to order any appropriate restitution to any person. Such order shall be entered upon hearing after proper notice has been given to the secondhand dealer, the victim, and the defendant in the criminal case.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 4, ch. 93-97; s. 24, ch. 99-6.

538.09 Registration.—

(1) A secondhand dealer shall not engage in the business of purchasing, consigning, or trading secondhand goods from any location without registering with the Department of Revenue. A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. One application is required for each dealer. If a secondhand dealer is the owner of more than one secondhand store location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (4) and (5) of this section, these duplicate registrations shall be deemed individual registrations. A dealer shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the Operating Trust Fund. The Department of Revenue shall forward the full set of fingerprints to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Revenue. The department may issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but shall revoke such temporary

registration if the completed background check reveals a prohibited criminal background. An applicant for a secondhand dealer registration must be a natural person who has reached the age of 18 years.

(a) If the applicant is a partnership, all the partners must apply.

(b) If the applicant is a joint venture, association, or other noncorporate entity, all members of such joint venture, association, or other noncorporate entity must make application for registration as natural persons.

(c) If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the corporation is duly organized in the state or, if the corporation is organized in a state other than Florida, a certified copy of statement from the Secretary of State that the corporation is duly qualified to do business in this state. If the dealer has more than one location, the application must list each location owned by the same legal entity and the department shall issue a duplicate registration for each location.

(2) The secondhand dealer shall furnish with her or his registration a complete set of her or his fingerprints, certified by an authorized law enforcement officer, and a recent fullface photographic identification card of herself or himself. The Department of Law Enforcement shall report its findings to the Department of Revenue within 30 days after the date the fingerprints are submitted for criminal justice information.

(3) The secondhand dealer's registration shall be conspicuously displayed at her or his registered location. A secondhand dealer must hold secondhand goods at the registered location until 15 days after the secondhand transaction or until any extension of the holding period has expired, whichever is later.

(4) The department may impose a civil fine of up to \$10,000 for each violation of this section, which fine shall be transferred into the General Revenue Fund. If the fine is not paid within 60 days, the department may bring a civil action under s. 120.69 to recover the fine.

(5) In addition to the fine provided in subsection (4), registration under this section may be denied or any registration granted may be revoked, restricted, or suspended by the department if the department determines that the applicant or registrant:

(a) Has violated any provision of this chapter or any rule or order made pursuant to this chapter;

(b) Has made a material false statement in the application for registration;

(c) Has been guilty of a fraudulent act in connection with any purchase or sale or has been or is engaged in or is about to engage in any practice, purchase, or sale which is fraudulent or in violation of the law;

(d) Has made a misrepresentation or false statement to, or concealed any essential or material fact from, any person in making any purchase or sale;

(e) Is making purchases or sales through any business associate not registered in compliance with the provisions of this chapter;

(f) Has, within the preceding 10-year period for new registrants who apply for registration on or after October 1, 2006, been convicted of, or has entered a plea of guilty or nolo contendere to, or had adjudication withheld for, a crime against the laws of this state or any other state or of the United States which relates to registration as a secondhand dealer or which involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, any felony drug offense, any violation of s. 812.015, or any fraudulent dealing;

(g) Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit; or

- (h) Has failed to pay any sales tax owed to the Department of Revenue.

In the event the department determines to deny an application or revoke a registration, it shall enter a final order with its findings on the register of secondhand dealers and their business associates, if any; and denial, suspension, or revocation of the registration of a secondhand dealer shall also deny, suspend, or revoke the registration of such secondhand dealer's business associates.

(6) Upon the request of a law enforcement official, the Department of Revenue shall release to the official the name and address of any secondhand dealer registered to do business within the official's jurisdiction.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 5, ch. 90-318; s. 4, ch. 91-429; s. 3, ch. 92-79; s. 16, ch. 94-353; s. 746, ch. 97-103; s. 6, ch. 2006-201; s. 4, ch. 2007-14; s. 71, ch. 2012-5; s. 49, ch. 2013-116.

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. The department is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 247, ch. 96-410; s. 35, ch. 97-99; s. 25, ch. 2001-63.

538.15 Certain acts and practices prohibited.—It is unlawful for a secondhand dealer or any employee thereof to do or allow any of the following acts:

- (1) Knowingly make a transaction with:
 - (a) Any person who is under the influence of drugs or alcohol when such condition is visible or apparent;
 - (b) Any person under the age of 18 years; or
 - (c) Any person using a name other than her or his own name or the registered name of her or his business.
- (2) Have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 10 p.m. and 8 a.m. A secondhand dealer shall not conduct any transaction at a drive-through window or similar device.
- (3) Fail to pay any sales tax owed to the Department of Revenue or fail to have a sales tax registration number.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 3, ch. 95-287; s. 747, ch. 97-103; s. 21, ch. 2000-138.

538.17 Local regulation of secondhand dealers.—Nothing in this chapter shall preclude political subdivisions of the state and municipalities from enacting laws more restrictive than the provisions of this chapter.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429.

PART II SECONDARY METALS RECYCLERS

- 538.18 Definitions.
- 538.19 Records required; limitation of liability.
- 538.20 Inspection of regulated metals property and records.
- 538.21 Hold notice.
- 538.22 Exemptions.
- 538.23 Violations and penalties.
- 538.235 Method of payment.
- 538.24 Stolen regulated metals property; petition for return.
- 538.25 Registration.
- 538.26 Certain acts and practices prohibited.
- 538.28 Local government regulation.

538.18 Definitions.—As used in this part, the term:

(1) “Appropriate law enforcement official” means the sheriff of the county in which a secondary metals recycler is located or, if the secondary metals recycler is located within a municipality, the police chief of the municipality in which the secondary metals recycler is located; however, the sheriff or police chief may designate as the appropriate law enforcement official for the county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This subsection does not limit the authority or duties of the sheriff.

(2) “Department” means the Department of Revenue.

(3) “Ferrous metals” means any metals containing significant quantities of iron or steel.

(4) “Fixed location” means any site occupied by a secondary metals recycler as owner of the site or as lessee of the site under a lease or other rental agreement providing for occupation of the site by the secondary metals recycler for a total duration of not less than 364 days.

(5) “Money” means a medium of exchange authorized or adopted by a domestic or foreign government as part of its currency.

(6) “Nonferrous metals” means metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof, excluding precious metals subject to regulation under part I.

(7) “Personal identification card” means a valid Florida driver license, a Florida identification card issued by the Department of Highway Safety and Motor Vehicles, an equivalent form of identification issued by another state, a passport, or an employment authorization issued by the United States Bureau of Citizenship and Immigration Services that contains an individual’s photograph and current address.

(8) “Purchase transaction” means a transaction in which a secondary metals recycler gives consideration for regulated metals property.

(9) “Regulated metals property” means any item composed primarily of any nonferrous metals. The term does not include aluminum beverage containers, used beverage containers, or similar beverage



Registration Application for Secondhand Dealers and/or Secondary Metals Recyclers

DR-1S
R. 11/12

Rule 12A-17.005
Florida Administrative Code
Effective 01/13

Instructions

A secondhand dealer, mail-in secondhand dealer, or secondary metals recycler must comply with the following before engaging in business in Florida

Register with the Department of Revenue by completing a Registration Application (Form DR-1S) and paying the registration processing fee. Corporations, sole proprietorships, partnerships, joint ventures, and any other type of business entity must comply with these registration requirements.

Applicants who do not currently hold a current *Certificate of Registration for Secondhand Dealer or Secondary Metals Recycler* (Form DR-11S) and are submitting this application as a "new business" must undergo a background investigation by electronically submitting fingerprints to a Livescan service provider approved by the Florida Department of Law Enforcement (FDLE). A background investigation must be completed for each business owner, officer, member, director, stockholder, and partner, with a controlling interest in the company. Background investigation fees are paid directly to the Livescan service provider. (See details below).

Secondhand dealers must register at least one location (not a P.O. Box) in each county where you will purchase, consign, or trade secondhand goods, however, secondhand dealers who also conduct business at temporary locations (such as at trade shows, malls or hotel lobbies) in a county where you hold a current secondhand dealer registration, are NOT required to submit additional applications for each temporary business location. Secondary metals recyclers must register each business location.

Applicants may submit registration application(s) (Form DR-1S) to the Department of Revenue either before or soon after submitting your fingerprints to a Livescan service provider.

Certificates of Registration (Form DR-11S) are valid for one year October 1 – September 30th and must be renewed annually. The Department annually mails renewal forms to all registered certificate holders in August.

Note: A business that engages in "pawnbroker" activities or title loan transactions is not required to register as a secondhand dealer with the Department of Revenue. Pawnbrokers register with the Florida Department of Agriculture and Consumer Services. A business that engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts must register with the Department of Highway Safety and Motor Vehicles (DHSMV) for a salvage motor vehicle dealer license.

Registration Fee (paid to the Department of Revenue): The registration processing fee is \$6.00 for each location. For example, if you are registering three business locations, you must include fees for three registrations (3 x \$6.00 = \$18.00).

Make your check payable to the Florida Department of Revenue. Mail your DR-1S application(s) and fee to:

Account Management - Secondhand Dealer Unit
Florida Department of Revenue
5050 W. Tennessee St. - Mail Stop 1-5730
Tallahassee FL 32399-0160

Visit www.myflorida.com/dor to print a registration application (Form DR-1S) or a registration package (Form GT-200405), and for additional information.

Background Investigation Requirements

Applicants submitting an initial "new business" secondhand dealer, mail-in secondhand dealer, or secondary metals recycler registration are required to undergo a background investigation. However, business owners who hold an active *Certificate of Registration* (Form DR-11S) may submit registration applications (Form DR-1S) for additional locations without undergoing a background investigation.

Each business owner, officer, member, director, partner and stockholder with a controlling interest in the company must submit finger prints as part of the background investigation process. Applicants submit their finger prints electronically to a Livescan service provider approved by the Florida Department of Law Enforcement (FDLE).

Visit FDLE's website at www.fdle.state.fl.us and click on "Request a Criminal History," choose a service provider from the "Livescan Service Providers" link and complete the fingerprinting process.

The Florida Department of Revenue's Originating Agency Identification (ORI) number is:

FL 921650Z

This number must be given to the Livescan service provider you choose. Applicants are responsible for selecting an approved service provider, completing the fingerprint process, and providing the service provider with the Department's ORI number. If you do not provide the correct ORI number to the service provider when you submit your fingerprints, Revenue will not receive your investigation results.

Background Investigation Fee (paid directly to the Livescan service provider): The background investigation fee is paid directly to the Livescan service provider. The fee charged by each service provider varies. Choose a service provider listed on FDLE's website at: www.fdle.state.fl.us and contact a service provider near you to complete the background investigation.

Applicants located outside of Florida should read *Electronic Fingerprint Procedures* (Form GT-200403) and follow the steps provided for applicants located outside Florida. These procedures are included in the Form GT-200405 registration package and also are posted on our website: http://dor.myflorida.com/dor/taxes/secondhand_dealers_recyclers.html.

Employees of secondhand dealers, mail-in secondhand dealers, and/or secondary metals recyclers with no controlling interest, financial or otherwise, do not have to undergo background investigations.

A director with no ability to control the company may submit a letter signed by an active principal corporate officer (president, vice-president, secretary, or treasurer) attesting that the director in question is not required to submit to a background investigation because he or she is not an owner of any interest, financial or otherwise.



**Registration Application for Secondhand Dealers
and/or Secondary Metals Recyclers**

1. This application is for a:

- Secondhand Dealer
- Mail-in Secondhand Dealer
- Secondary Metals Recycler

2. This application is for a (check one):

a. New business Additional business location

b. List current secondhand dealer registration number

- -

*** Please Type or Print Clearly***

3. Legal name of corporation, individual owner, limited liability company, partnership, or other:		Owner's telephone number: ()
4. Trade, fictitious, or "doing business as" name (if different than #3):		Business telephone number: ()
5. Physical address of business. Home-based businesses must provide your home address. Listing a post office box, private mailbox, or rural route number is not permitted.		Fax number: ()
Street:		County:
City/State/ZIP:		
6. Contact name (business owner or designee):		Contact telephone number: ()
Mailing address (if different than physical address):		
Street:		E-mail address: Your e-mail address is treated as confidential information (s. 213.053, F.S.), and is not subject to disclosure of public records (s. 119.071, F.S.).
City/State/ZIP:		

7. List your sales and use tax number (your application cannot be processed without a sales and use tax number):

- -

8. Business Entity Identification Number - Provide the Federal Employer Identification Number (FEIN) of the business or Social Security Number (SSN) * of the owner/sole proprietor.

- a. Federal Employer Identification Number (FEIN): -
- or
- b. Social Security Number (SSN) of owner: - -

(If you are required to have an FEIN but have not yet been assigned one, you may call the Internal Revenue Service at 800-829-4933 to request one.)

* Social security numbers (SSNs) are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. SSNs obtained for tax administration purposes are confidential under ss. 213.053 and 119.071, F.S., and not subject to disclosure as public records. Collection of your SSN is authorized under state and federal law. Visit our Internet site at www.myflorida.com/dor and select "Privacy Notice" for more information regarding the state and federal law governing the collection, use, or release of SSNs, including authorized exceptions.

FOR DOR USE ONLY			
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	By: (User ID) <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Date <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> month day year
Business Partner No.	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		
Contract Object (LO)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		



9. Business Structure and ownership (check one):

- Sole proprietorship - An unincorporated business that is owned by one individual.
- Partnership - The relationship existing between two or more entities or individuals who join to carry on a trade or business. This includes a business jointly owned/operated by a husband and wife.
Check one:
 - General partnership
 - Limited partnership
 - Joint venture
 - Married couple

Corporation - A person or group of people who incorporate by receiving a charter from their state's Secretary of State (includes professional service corporations).

- Check one:
- C-corporation
 - S-corporation
 - Not-for-profit corporation

Limited liability company - Two or more entities (or individuals) who file articles of organization with their state's Secretary of State.

- Check one:
- Single-member LLC
 - Multi-member LLC

Check here if you elected to be treated as a corporation for federal income tax purposes.

10. Corporations, partnerships, limited liability companies must provide the following:

a. Fiscal year ending date: / /
month day

b. Document/registration number issued by the Florida Secretary of State when the business was chartered or authorized to conduct business in Florida:

c. Date of incorporation, formation or organization, or date of authorization to conduct business in Florida:

/ /
month day year

Note:
If you are not incorporated, chartered or registered to do business in Florida, you may be required to do so. For more information, go to the Florida Department of State's Internet site at www.sunbiz.org or call 850-488-9000.

11 a. If the business is incorporated in another state, provide the name of the state: _____

b. If the business is a corporation, provide the registered agent's contact information:

Registered agent's name: _____

Registered agent's street address: _____

Registered agent's City/State/ZIP: _____

Registered agent's telephone number (include area code) _____

12. Ownership Information: Provide the full name, title, FEIN or SSN (if an FEIN is not required for your business entity, the SSN of the owner is required), and address and telephone number of each corporate officer, owner, general partner, stockholder and/or director with a controlling interest. Make copies of this page if additional space is needed.

Name	SSN or FEIN	Street address City/State/ZIP or Foreign Country/Postal Code	Telephone number
Title			() - -
			() - -
			() - -
			() - -



Definitions

Chapter 538, Parts I-III, Florida Statutes

Secondhand dealers engage in the business of purchasing, consigning, or trading secondhand goods.
(See s. 538.03, F.S., for the complete definition and exceptions to Chapter 538, F.S., requirements.)

Note: Persons in the business of buying, consigning or trading precious metals, including jewelry, should register as a secondhand dealer.

Mail-in Secondhand Dealers conduct business within Florida and contract with other persons or entities to buy precious metals or jewelry through an Internet website, the United States Post Office, or telemarketing.
(See s. 538.31, F.S., for complete definition.)

Secondary metals recyclers engage from a fixed location, in the business of purchase transactions, or gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or have facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted from raw material products consisting of prepared grades and having an existing or potential economic value. (See s. 538.18, F.S., for complete definition.)

Note: Salvage, scrap metal, and recycling centers are examples of businesses that must register as a secondary metals recycler. A business that acquires salvaged or wrecked motor vehicles for the purpose of reselling them and their parts must also register with the Department of Highway Safety and Motor Vehicles (DHSMV) for a **salvage motor vehicle dealer license**.

You will NOT be issued a Certificate of Registration (Form DR-11S) if:

1. You are not registered to pay and file sales and use tax in Florida.
2. You are younger than 18 years old.
3. **You are applying for a Secondhand or Mail-in Secondhand Dealer license** and within the preceding 10 years, any business owner, officer, member, director, partner, and/or stockholder with a controlling interest in the company was convicted of, or entered a plea of guilty or nolo contendere to, or had adjudication withheld for, a crime against the laws of Florida or any other state in the United States relating to registration as a secondhand dealer or involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, any felony drug offense, any violation of s. 812.015, F.S., or any fraudulent dealing.
4. **You are applying for a Secondhand or Mail-in Secondhand Dealer license** and any business owner, officer, member, director, partner, and/or stockholder with a controlling interest in the company ever had a final judgment entered against them in civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit.
5. **You are applying for a Secondary Metals Recycler license** and:
 - (A) Within the preceding 24 months, any business owner, officer, member, director, partner, and/or stockholder with a controlling interest in the company was convicted of, or entered a plea of guilty or nolo contendere to, a felony committed against the laws of Florida or any other state in the United States involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, any felony drug offense, or of knowingly or intentionally violating the laws of Florida relating to registration as a secondary metals recycler, or
 - (B) You are registering a business location that does not meet the definition of a "fixed location" in s. 538.18, F.S.

Signature - Under the penalties of perjury, I declare that I have read this application and that the facts stated in it are true.

Signature of Applicant

Title

Date

This application cannot be processed if not signed by an owner, officer, member, partner, director, or stockholder with a controlling interest in the company.

Contact Us

Tax information, service center addresses and phone numbers, forms, and tutorials are available on our Internet site at: www.myflorida.com/dor. To speak with a Department of Revenue representative, call Taxpayer Services, Monday through Friday, 8 a.m. to 7 p.m., ET, at 800-352-3671 or visit a Department of Revenue Service Center near you. Service centers are located throughout Florida. Visit our Internet site to find the address and phone number of the service center nearest you.

**Secondhand Dealer Registrations, by County in Florida
2008 - 2013***

County	2008	2009	2010	2011	2012	2013
Alachua	22	28	35	45	71	62
Baker	1	0	0	2	5	3
Bay	11	16	32	35	46	46
Bradford	2	5	3	4	6	5
Brevard	48	87	163	145	224	171
Broward	197	257	328	357	485	441
Calhoun	1	2	4	1	2	2
Charlotte	23	28	49	40	55	57
Citrus	17	24	36	45	54	54
Clay	11	39	51	39	50	58
Collier	36	61	80	78	104	98
Columbia	9	17	21	28	28	21
De Soto	5	6	7	8	26	17
Dixie	0	0	0	0	0	1
Duval	65	122	147	167	211	193
Escambia	38	45	108	77	100	75
Flagler	5	10	19	23	32	27
Franklin	0	0	0	1	4	3
Gadsden	2	3	9	5	6	4
Gilchrist	0	0	0	0	1	1
Glades	0	0	0	1	0	0
Gulf	2	3	2	3	3	3
Hamilton	0	0	0	0	0	0
Hardee	1	3	5	5	10	10
Hendry	4	8	12	3	7	6
Hernando	27	36	52	54	67	65
Highlands	8	12	20	22	37	34
Hillsborough	100	174	253	262	278	230
Holmes	1	1	2	2	3	2
Indian River	23	36	46	56	86	72
Jackson	1	2	19	21	8	6
Jefferson	2	1	1	2	3	3
Lafayette	0	0	0	0	0	0
Lake	30	45	70	66	75	74
Lee	125	235	271	195	233	221
Leon	26	36	62	58	72	75
Levy	4	10	11	11	14	16
Liberty	0	0	3	1	1	0
Madison	2	2	1	1	6	4
Manatee	31	42	68	70	99	86
Marion	36	42	86	88	114	96
Martin	28	58	64	64	113	71
Miami-dade	180	268	353	405	485	443
Monroe	7	16	17	20	27	24
Nassau	4	6	11	12	22	17

**Secondhand Dealer Registrations, by County in Florida
2008 - 2013***

County	2008	2009	2010	2011	2012	2013
Okaloosa	21	30	131	74	77	64
Okeechobee	2	6	28	11	15	13
Orange	114	155	266	320	330	308
Osceola	25	39	68	82	91	84
Out of State	5	8	6	1	1	1
Palm Beach	173	300	358	344	459	424
Pasco	41	56	108	128	139	121
Pinellas	133	184	291	253	269	254
Polk	50	78	111	117	144	134
Putnam	5	6	10	16	17	15
Saint Johns	13	24	38	46	72	61
Saint Lucie	20	59	73	82	112	94
Santa Rosa	7	14	53	28	37	28
Sarasota	53	70	113	129	157	140
Seminole	62	90	139	149	200	187
Sumter	4	4	10	13	26	25
Suwannee	1	2	2	4	10	8
Taylor	0	5	9	4	7	5
Union	0	0	0	0	0	0
Volusia	41	71	140	136	181	151
Wakulla	1	1	4	6	11	8
Walton	5	8	17	20	25	18
Washington		1	2	6	8	8
Total	1,911	2,997	4,498	4,491	5,661	5,048

* Note: Registration information is compiled each August.
Includes mail-in secondhand dealers

**FLORIDA DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**



**ADAM H. PUTNAM
COMMISSIONER**

**PAWNBROKING
REGISTRATION APPLICATION**
Chapter 539.001, Florida Statutes
5J-13.002

Florida Department of Agriculture and Consumer Services
Florida Pawnbroker Application

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Pawnbroking Registration Application

Effective October 1, 1996, Chapter 539, Florida Statutes, The Florida Pawnbroking Act, requires any person operating as a pawnbroker to annually obtain a license from the Department of Agriculture and Consumer Services. Pawnshops are also required to use a pawnbroker transaction form that contains specific information as required by Section 539.001(8), Florida Statutes.

It is a violation of the Florida Pawnbroking Act for any person to engage in the business of making pawns without first obtaining a license from the Department. Failure to comply with this law will subject violators to injunctive and other appropriate civil or criminal relief, including fines up to \$5,000 per violation. In addition, you must show proof of licensure from the Department prior to obtaining or renewing your local occupational license.

The annual license fee is \$300 per location. In addition, there is a \$45.25 background investigation fee for each Principal in the business. Principals are: every owner or beneficial owner of at least 10% of the business, partner, officer, or director. Please return to the Department: (1) the application; (2) \$300 filing fee plus \$45.25 background investigation fee and a set of fingerprints for each Principal; (3) proof of a net worth of at least \$50,000, or an original surety bond, letter of credit, or certificate of deposit in the amount of \$10,000 for each license; and (4) the actual pawnbroker transaction form to be approved by the department.

A sample surety bond, an irrevocable letter of credit, and a certificate of deposit can be accessed online at www.800helpfla.com. A balance sheet to submit your assets and liabilities (if submitting a personal income tax return) is included in the application package. The pawnbroker transaction form to be used by your business must be submitted to the Department for review and approval prior to use. This form must also include the name and address of the pawnshop. To obtain a fingerprint card, contact the Department at 1-800-HELP-FLA (435-7352), or (850) 410-3800.

If you have any questions, please contact the Department at 1-800-HELP-FLA (435-7352), or (850) 410-3800 or via facsimile at (850) 410-3804, or the pawn detail of your local law enforcement agency.

APPLICATION CHECKLIST AND INSTRUCTIONS

Item #1

Provide the legal name of the applicant **exactly** as it appears in its articles of incorporation document. If using a fictitious name (DBA), provide that name also. **Note: Corporate, LLC, and Fictitious Names are verified with the State Division of Corporations and must match the name exactly as filed.**

Item #2

Provide the principal street address for the applicant. Include the suite, room, or other unit number. If the mailing address (i.e. a generally used post office box) is different from the organization's street address, provide that address as well. **Note: In order for correspondence to be sent directly to an attorney or other third party, you must insert the attorney's or third party's address as the mailing address for the pawnshop.**

Item #3

You must provide a primary telephone number, including the area code, for the applicant. Also, provide a fax number, email address, and website if used to provide information to or communicate with the public.

Item #4

Provide the name, title, address, and telephone number of the designated contact person.

Item #5

Provide the applicant's federal employer identification number and sales tax ID number. Note: Taxpayers can obtain an EIN immediately by calling the IRS Business and Specialty Tax Line (1-800-829-4933).

Item #6

Answer by checking appropriate box and provide form and address of applicant.

Item #7

Provide the name and address of each direct or beneficial owner of at least 10%; the person in charge of daily operations and if corporation, all corporate officers, partners, directors, and registered agents. Indicate the percentage of ownership (total of ownership must equal 100%). Please indicate if any of the individuals listed have been convicted of, entered a plea of guilty or nolo contendere to, had adjudication withheld or been incarcerated for crime within the last 10 years. Please make a selection and provide on a separate sheet, the name of such person, the nature of the offense, the court having jurisdiction, the disposition of the offense, and the date of disposition.

Item # 8

Provide the law enforcement agency that collects your pawnbroker transaction forms, including their contact information.

Item # 9

Answer as directed by checking appropriate box.

Item # 10

The application must be signed and notarized by an official Notary Public.

OTHER REQUIRED DOCUMENTS AND FEES

In order to process your application as quickly as possible, and avoid costly delays, please verify that all items listed below are included prior to sending:

- \$300 fee for each location (Make check or money order payable to FDACS). All fees are non-refundable.
- Fingerprint card and a \$45.25 fee for each operator and manager; each individual with at least 10 percent (10%) ownership; and all officers and directors if a corporation (Make check payable to the Florida Department of Agriculture and Consumer Services). All fees are non-refundable.
- Original Copy of the pawnbroker transaction form with name and address of pawnshop.
- Security Requirement; choose any one of A, B, C, or D. If ownership is corporation, all documents must be titled in the name of the corporation.
 - A. Any applicant claiming to have a net worth of \$50,000 or more shall file with the department, at the time of applying for a license, the following documentation: *[539.001(4)(b)]*
 - A current financial statement prepared by a Florida certified public accountant; **OR**
 - An affidavit stating the applicant's net worth is at least \$50,000 (see page 9), accompanied by supporting documentation; **OR**
 - If the applicant is a corporation, a copy of the applicant's most recently filed federal tax return (first four pages, including schedule L).
 - B. Submit \$10,000 original Surety Bond for each location on the form. *[539.001(4)(a)2]*
 - C. Submit \$10,000 original Irrevocable Letter of Credit for each location.
 - D. Submit \$10,000 original Certificate of Deposit and Assignment Form for each.

IMPORTANT

Please submit everything listed above (completed notarized application; \$300 check or money order per location, made payable to the FDACS; Fingerprint card(s) and a \$45.25 fee per person) to:

FDACS
Pawnbroking Program
P.O. Box 6700
Tallahassee, FL 32314-6700

Florida Department of Agriculture and Consumer Services
Division of Consumer Services



ADAM H. PUTNAM
COMMISSIONER

**PAWNBROKING
REGISTRATION APPLICATION**

Section 539.001, Florida Statutes
5J-13.002

1-800-HELP-FLA (435-7352) • 850-410-3800 *Calling Outside Florida*
www.800helpfla.com • 850-410-3804 Fax

Make check or money order
payable and remit application to:

FDACS
P.O. Box 6700
Tallahassee, FL 32314-6700

PLEASE TYPE OR PRINT. Additional pages may be attached if additional space is needed. This application will be returned if it does not bear an authorized signature or is incomplete. All documents and attachments submitted with this application are subject to public review pursuant to Chapter 119, F.S.

Business Information

Please Select one: New Filing Renewal PN#: _____ Change of Owner

Do you currently hold a Florida Pawn License at another location?

Yes No If yes, please provide the PN number for ONE of your other locations: _____

1. Name (If applicant is not an individual, state legal name as registered with the Florida Department of State):

* Fictitious (DBA) Name (if applicable):

**All fictitious names must be registered with the Division of Corporations. If business is a corporation then 'Name' is the legal name of the business as listed with the Division of Corporations.*

2. Business Street Address (include APT or SUITE # in all address lines):

City: _____ State: _____ Zip Code: _____

Mailing Address (if different from above):

City: _____ State: _____ Zip Code: _____

3. Telephone Number: _____ Fax Number: _____
() - () -

Email Address: _____ Website: _____

4. Name of Contact Person: _____ Title of Contact Person: _____

Mailing Address (if different from above):

City: _____

State: _____ Zip Code: _____

Telephone Number: _____ Email Address: _____
() -

5. Federal Employer ID #: _____ Florida Sales Tax ID: _____

Org Code: 42 10 06 25 000	
EO: A2	
Object Code: 001230	\$300.00
Object Code: 004156	\$45.25

Ownership

6. Form of organization:

- Corporation: _____
Corporation name as registered with the Florida Department of State
- Sole Proprietor: _____, _____, _____
Last Name First Name MI.
- Partnership: _____, _____, _____
Last Name First Name MI.
- Other: _____
Please Describe

Owner's Street Address <i>(If Sole Proprietor, state address of residence):</i> _____ City: _____ State: _____ Zip Code: _____ Telephone Number: () - _____	Owner's Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Email Address: _____
---	--

7. Please list the name and address of each direct or beneficial owner of at least 10%; the person in charge of daily operations and if corporation, all corporate officers, partners, directors, and registered agents. Please indicate whether any of the individuals listed below have been convicted of, entered a plea of guilty or nolo contendere to, had adjudication withheld for, or been incarcerated for a crime within the last 10 years. Please indicate if any of the individuals listed below acting as a beneficial owner for someone who has been convicted of, entered a plea of guilty or nolo contendere to, had adjudication withheld or been incarcerated for crime within the last 10 years? [s. 539.001(4)(a)1, 3-4, F.S.]

Mark YES or NO. If yes, provide on a separate sheet, the name of such person, the nature of the offense, the court having jurisdiction, the disposition of the offense, and the date of disposition.

Name: _____ Title: _____ Address: _____ City: _____ State: _____ Zip Code: _____ Ownership: _____ % <input type="checkbox"/> Yes <input type="checkbox"/> No	Name: _____ Title: _____ Address: _____ City: _____ State: _____ Zip Code: _____ Ownership: _____ % <input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

Name: _____ Title: _____ Address: _____ City: _____ State: _____ Zip Code: _____ Ownership: _____ % <input type="checkbox"/> Yes <input type="checkbox"/> No	Name: _____ Title: _____ Address: _____ City: _____ State: _____ Zip Code: _____ Ownership: _____ % <input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

Law Enforcement Information

8. Police Department:

Contact Person:

Telephone Number:

() -

Email Address:

Sheriff's Office:

Contact Person:

Telephone Number:

() -

Email Address:

Type of Security Provided

9. Type of Security (please check one and select location of security):

- | | | |
|--|--|--|
| <input type="checkbox"/> Surety Bond: | <input type="checkbox"/> original enclosed | <input type="checkbox"/> on file with the Department |
| <input type="checkbox"/> Irrevocable Letter of Credit: | <input type="checkbox"/> original enclosed | <input type="checkbox"/> on file with the Department |
| <input type="checkbox"/> Certificate of Deposit: | <input type="checkbox"/> original enclosed | <input type="checkbox"/> on file with the Department |
| <input type="checkbox"/> Net worth of at least \$50,000, no security required: | | |

Corporation: Include a copy of the most recently filed federal tax return. [s. 539.001(4)(b)3]

Personal/Sole Proprietor: Include a current financial statement prepared by a Florida Certified Public Accountant or an affidavit stating net worth is at least \$50,000 accompanied by a balance sheet (see enclosed sample).

10. The undersigned warrants that he/she is empowered to execute this application on behalf of the above named applicant and certifies that the owner(s), partners, directors, corporate officers and operators listed herein are of good moral character. The undersigned further acknowledges awareness of and compliance with all of the requirements of Chapter 539.001, F.S., including the use of an approved pawnbroker transaction form and that the pawn service charge may not exceed 25% of the amount financed for each 30 day period.

Print Name of Owner

Title

Signature of Owner

Month

Day

Year

State of: _____

County of: _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, _____, by _____, who is personally known to me or who has produced _____ as identification.

SEAL/STAMP

(Notary Public Signature)

(Notary Public Name, Please Print)

Pawnbroking Net Worth Affidavit

Personal income tax returns do not include a listing of your assets and liabilities. If you are submitting a personal income tax return as proof of a net worth of at least \$50,000, please complete this balance sheet and return it to the Department.

Statement of assets and liabilities for _____ As of: _____, 20 _____

Assets		
Current Assets		
Cash	\$	
Accounts Receivable	\$	
Inventory	\$	
Prepaid Expenses	\$	
Other Current Assets	\$	
Total Current Assets		\$ 0.00
Fixed Assets		
Land and Buildings (net)	\$	
Equipment (net)	\$	
Other Fixed Assets	\$	
Total Fixed Assets		\$ 0.00
Other Assets		
Long-Term Investments	\$	
Other Assets	\$	
Other Assets	\$	
Total Other Assets		\$ 0.00
Total Assets		\$ 0.00

Liabilities and Equity		
Current Liabilities		
Accounts Payable	\$	
Short-Term Loans	\$	
Taxes Payable	\$	
Other Current Liabilities	\$	
Total Current Liabilities		\$ 0.00
Long-Term Liabilities		
Mortgage Payable	\$	
Long-Term Loans	\$	
Other Long-Term	\$	
Total Long-Term Liabilities		\$ 0.00
Equity		
Net Equity	\$	
Retained Earnings	\$	
Total Equity		\$ 0.00
Total Liabilities and Equity		\$ 0.00

I certify the above information to be true and accurate.

Print Name of Owner

Signature of Owner

Title

_____ / _____ / _____

Month Day Year

State of: _____

County of: _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, _____,

by _____, who is personally known to me or who has produced _____ as identification.

SEAL/STAMP

(Notary Public Signature)

Notary Public Name, Please Print

BOCA RATON

Sec. 8-58. - Consignment shops; special requirements.

- (1) Prior to the payment of the business tax and issuance of a certificate of use when an applicant has applied for approval of a consignment shop, the applicant shall furnish:
 - (a) A bond issued by a surety company qualified to do business in the state in the amount of \$10,000.00. The original shall be filed with the city. The bond shall be payable to any individual who is injured by the fraud, misrepresentation, breach of contract or financial failure of the applicant; and
 - (b) Proof that the applicant (or, if the applicant is a corporation, any officers, directors or stockholders thereof) has not been convicted within the preceding 10 years of any felony in Florida or any other state or the United States. The term "conviction" shall include an adjudication of guilt on a plea of guilty, or nolo contendere, regardless of whether the sentence was suspended or adjudication with held, or the forfeiture of a bond when charged with a crime.
- (2) The bond shall provide that the bond may not expire or be cancelled prior to 30 days after the city manager receives written notice of such expiration or cancellation from the surety.
- (3) With respect to certificates of use issued pursuant to subsection (1)(a), in the event the applicant fails to maintain and renew annually the bond, or the bond is cancelled or dishonored, the certificate of use issued to the applicant pursuant to this chapter shall automatically be revoked.
- (4) Conviction of a felony, as defined in this section, in Florida or any other state or the United States, shall automatically revoke any certificate of use issued pursuant to this chapter, except that an existing consignment shop shall not be required to comply with this ordinance if it relocates to a different location in the city.

(Ord. No. 5030 § 3, 4-8-08)

