

Chapter 15

LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS*

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ARTICLE I. IN GENERAL

Secs. 15-1--15-25. Reserved.

ARTICLE II. JUNKYARDS**

DIVISION 1. GENERALLY

Sec. 15-26. Definitions.

Whenever the following terms are used in this article, they shall have the meanings respectively ascribed to them in this section:

Antique auto shall mean an automobile that is at least twenty-five (25) years old.

Collector shall mean the owner of one (1) or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Demolisher shall mean a person whose business is to convert a motor vehicle into sec 15.26. processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper shall mean an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

***Cross references**—Finance, § 2-76 et seq.; alcoholic beverages, Ch. 3; ambulances, Ch. 4; amusements, Ch. 5; animal vendors, § 6-136 et seq.; building contractors, § 8-56 et seq.; electricians, § 8-106 et seq.; food service establishment, § 13-2; smoking, § 13-41 et seq.; housing discrimination, § 14-26 et seq.; mobile homes, mobile home parks, etc., Ch. 17; peddlers, solicitors, etc., Ch. 20; railroads, Ch. 23; taxation, Ch. 27; wreckers, § 28-56 et seq.; vehicles for hire, Ch. 29

State law references—Authority to enforce ordinances necessary to protect and preserve health, property, good government and order, V.T.C.A., Local Government Code § 54.004; general authority to license businesses or occupations, V.T.C.A., Local Government Code § 215.075.

****Editor's note**—Ordinance No. 94-26, § I, adopted April 12, 1994, amended §§ 15-26--15-28 and 15-41--15-46 to read as set out herein. Prior to such amendment, said sections pertained to junkyards and derived from Ch. 3, Art. 11, §§ 1-4 of the 1963 Code.

Junked vehicle shall mean a motor vehicle, as defined in Vernon's Annotated Civil Statutes Article 6701d-11, section 1, that is inoperative and that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperative for a continuous period of more than forty-five (45) days.

Junkyard shall mean any place where used appliances, materials, junked vehicles and/or equipment, are stored or abandoned, either in whole or in part, for a period of thirty (30) days or more.

(Ord. No. 94-26, § I, 4-12-94)

Sec. 15-27. Declaration of nuisance.

Any place primarily used or maintained by any person as a junkyard or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, machinery, used appliances and/or material of any kind, or of any of the parts thereof, is hereby declared to be a public and common nuisance, being obnoxious to the inhabitants of the city and the surrounding area because of its interference with the comfortable enjoyment of life and property by such inhabitants, the reduction of the value of surrounding property, creation of health and fire hazards, and the adverse effects on the environment, and is prohibited within the city limits of the city and also prohibited within the area extending five thousand (5,000) feet therefrom, unless the same is conducted in the manner hereafter stated, and following the payment of the license fee hereafter described. (Ord. No. 94-26, § I, 4-12-94)

Cross reference(s)--Nuisances, Ch. 18.

Sec. 15-28. Order to remove.

Any owner, lessee, occupant or person in control of any property having on it any of the nuisances described in this article may be required to remove, abate or cure the nuisance on the property by order, in writing, from the building official or his authorized representative. Such nuisance shall be removed, abated or cured within ten (10) days of the receipt of such order. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-29. City abatement--Restitution.

If the owner, lessee, occupant or person in control of any property fails to comply with the notice within ten (10) days of its receipt, the city may remove, abate or cure such nuisance. The owner, lessee, occupant or person in charge of property on which nuisance, as defined in this article, exists from which the city deems it necessary to remove, abate or cure such nuisance shall be required to pay to the city restitution for the city's service in performing such removal, abatement or cure in the amount established by ordinance. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-30. Same--Lien on property.

If the city abates a nuisance under this article, the owner, lessee, occupant or person in charge of the property shall be notified by mail of the charges therefor. If such charges are not paid within sixty (60) days of the receipt of such notice, the building official shall cause to be filed

with the county clerk documentation of such charge sufficient to establish a lien against the property on which the nuisance was abated. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-31. Penalty.

Any individual who fails to abate a nuisance within ten (10) days after notice from the building official, as provided in this article, shall be guilty of a misdemeanor punishable by a fine of not less than one hundred dollars (100.00), nor more than two thousand dollars (\$2,000.00). Each day after the ten-day period after the receipt of the notice in which the nuisance is not removed, abated or cured shall be a separate violation. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-32. Existing junkyards.

All existing junkyards as of the effective date of the ordinance from which this section is derived and which do not conform to division 2 below must comply with the provisions of this division within six (6) months of the effective date of this division or be found in violation hereof, and may be subject to the restitution, lien and penalty provisions of this chapter. (Ord. No. 94-26, § I, 4-12-94)

Secs. 15-33--15-40. Reserved.

DIVISION 2. LICENSE

Sec. 15-41. Required.

Any person desiring to use or maintain any property within the city, or within five thousand (5,000) feet of the corporate limits thereof, for any of the purposes mentioned in section 15-27, shall make written application to the city council for a license to do so. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-42. Application.

The application for a license required by this division shall set forth the name and address of the applicant and a legal description of the property or premises upon which the business is to be conducted, as well as a statement showing the effect on the use of surrounding property and its value and statement of the yard's impact upon the surrounding environment and ecology and upon the environment and ecology of the land proposed to be used as a junkyard. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-43. Issuance, denial.

The city council shall have the power to either grant or reject an application for a license required by this division. If the application is granted, such license shall be issued by the city council upon payment of the license fee. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-44. Fee.

The fee for a license required by this division shall be fifty dollars (\$50.00) per year. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-45. Expiration, renewal.

Any license issued under this division shall expire on the first day of January next succeeding the date of its issuance, but may be renewed from year to year in like manner as is provided in the original license. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-46. Revocation.

The city council shall have the power to revoke any license issued under this division at any time for good cause, but only after notice has been given to the owner or owners of the business of a hearing to be held not less than ten (10) days after the service of such notice. (Ord. No. 94-26, § I, 4-12-94)

Sec. 15-47. Maintenance of premises; fencing requirements.

Any person granted a license under this article shall do the following:

- (1) A screening device shall be erected before any outside storage is allowed and shall consist of a six-foot-high solid structure of wood or other suitable material and shall be constructed so as to obscure the junkyard premises from view from the abutting public road.
 - (2) No outside storage shall be located between the main building and any adjacent public street.
 - (3) No outside storage shall be located, either in whole or part, in a public street, sidewalk, parkway, alley or public right-of-way.
 - (4) All areas outside buildings and along the screening device shall be kept clean of weeds, grass, brush, litter and accumulation of hazardous waste.
- (Ord. No. 94-26, § I, 4-12-94)

Secs. 15-48--15-70. Reserved.

ARTICLE III. GARAGE SALES

Sec. 15-71. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Sec. 15-72. Permitted in residential areas.

Occasional or garage sales will be permitted in the R-1 (single-family) through R-3 (multi-family) districts and in other districts where primary use of property is residential. (Code 1963, Ch. 3, art. 18, § 1 [Ord. No. 74-56, § 1, 11-25-74])

Sec. 15-73. Conditions under which permitted.

Occasional or garage sales are permitted under the following conditions:

- (1) No person shall have an occasional or garage sale within the limits of the city without first obtaining a permit therefor.
- (2) Any person desiring to have an occasional or garage sale shall make application to the city secretary's office for permit. Such application shall state the name of the person who is having the sale, the address of such person, the location of the sale, and the dates of the sale. A copy of such permit shall be posted in a conspicuous place during the time and at the place where the sale is being held.
- (3) The building and development department shall charge and collect before the issuance of any permit a fee of five dollars (\$5.00).
- (4) Only the sale of tangible personal property at retail, by a person who does not hold himself out as engaging, nor does habitually engage, in the business of selling such tangible personal property at retail, shall constitute a garage or occasional sale under this article.
- (5) There shall not be more than two (2) sales by the same person during any twelve-month period, or on the same premises.
- (6) All sales shall be confined to the garage or patio of the premises.
- (7) No merchandise acquired solely for the purpose of resale shall be sold.
- (8) The duration of any sale shall not exceed three (3) consecutive calendar days.
- (9) Sales by churches, charities and fraternal organizations for the purpose of raising funds may be held on property other than that owned by the organization and tangible personal property donated by members or others may be sold.

(Code 1963, Ch. 3, art. 18, § 2 [Ord. No. 74-56, § 1, 11-25-74]; Ord. No. 92-67, § II, 9-8-92)

Sec. 15-74. Signs.

One (1) sign is permitted, not to exceed two (2) square feet, upon the property where an occasional or garage sale is taking place. All signs at any other location are prohibited. (Code 1963, Ch. 3, art. 18, § 3 [Ord. No. 74-56, § 1, 11-25-74])

Sec. 15-75. No auctions.

No sale of any property allowed to be sold under this article shall be by auction. Such sale shall constitute a violation of this article. (Code 1963, Ch. 3, art. 18, § 4 [Ord. No. 74-56, § 1, 11-25-74])

Sec. 15-76. Abatement--Generally.

An individual holding an illegal garage sale under this article shall, within one (1) hour of notice of violation of this article, cease and desist any and all activity covered by this article. (Code 1963, Ch. 3, art. 18, § 7 [Ord. No. 74-56, § 1, 11-25-74])

Sec. 15-77. Same--Separate violation.

Failure to abate an illegal sale under this article shall constitute a separate violation of this article. (Code 1963, Ch. 3, art. 18, § 8 [Ord. No. 74-56, § 1, 11-25-74])

Sec. 15-78. Each hour subsequent offense.

After notice that an illegal sale is being held, the person holding such sale shall be guilty of a

separate offense for each whole hour after the initial hour given to abate the sale. (Code 1963, Ch. 3, art. 18, § 9 [Ord. No. 74-56, § 1, 11-25-74])

Secs. 15-79, 15-80. Reserved.

ARTICLE IV. NONCOMMERCIAL CAR WASHES

Sec. 15-81. Definition.

(a) The term “car wash,” for purposes of this article, shall mean a temporary vehicle washing operation conducted by members of a social, fraternal, religious or other organization for organizational fundraising purposes. It shall not be deemed to include the operation of an authorized permanent vehicle washing business or a service station authorized to wash vehicles on its premises, although a car wash, as defined above, may be conducted on such premises.

(b) Nothing in this article shall be construed so as to prohibit the washing of any vehicle on the premises of the vehicle owner’s residence.
(Ord. No. 92-9, § I, 3-24-92)

Sec. 15-82. Applicable zoning districts.

Car washes will be permitted in all B-5 zoning districts, churches, schools, and fraternal organizations. (Ord. No. 92-9, § I, 3-24-92; Ord. No. 96-33, § 1, 4-23-96)

Sec. 15-83. Conditions under which permitted.

Car washes are permitted under the following conditions:

- (1) No person shall have a car wash within the limits of the city without first obtaining a permit.
- (2) Any owner or lessee of property who wishes to sponsor a car wash on said property, or the authorized employee or agent of said owner or lessee, shall make written application to the building and development services department a car wash permit, at least 48 hours prior to the proposed date and time of the car wash.
- (3) The following information shall be provided on the application:
 - a. The name and address of the sponsor;
 - b. The name of the organization that will be holding the car wash;
 - c. The name and address of the person who will be responsible for the activities of the organization members at the car wash;
 - d. The proposed date, times and location of the car wash; and
 - e. A statement by the applicant that he/she is the owner or lessee of the property where the car wash is to be held or is an employee or agent of the owner or lessee who has been delegated control of the premises by the owner or lessee, and that the applicant assumes all liability regarding the car wash.

The application shall also be accompanied by payment of a nonrefundable fee of fifteen dollars (\$15.00).

- (4) The building official shall review each application for a car wash permit. Upon issuance of a permit, the permit holder shall be given a copy of the permit and a copy of the provisions of this article.
- (5) A copy of the permit shall be posted in a conspicuous place during the time and at the place where the car wash is being held.
- (6) The duration of any car wash will not exceed two (2) consecutive calendar days, and each approved location will be allowed no more than two (2) events in a twelve (12) month period.
- (7) It shall be an offense for any person associated with the car wash to be located in the public right-of-way, state highway department right-of-way or the visibility triangle as defined by the code of ordinances of the city of Killeen.
- (8) It shall be an offense for a customer of any car wash to be located, whether inside their motor vehicle or not, in the public right-of-way, state highway department right-of-way or the visibility triangle as defined by the code of ordinances of the city of Killeen. This provision does not prohibit a person from traveling through rights-of-way in order to enter and exit said car wash.
- (9) All car wash activities shall take place at a distance of more than twenty-five (25) feet from the street curb, or from the near edge of the travel lane or lanes of any uncurbed street or road.

(Ord. No. 92-9, § I, 3-24-92; Ord. No. 96-33, § 1, 4-23-96)

Sec. 15-84. Signs.

One (1) sign is permitted, not to exceed six (6) square feet, upon the property where a car wash is taking place, providing said sign shall not be located in the public right-of-way, state highway department right-of-way or the visibility triangle as defined in section 28-241(a)(2) of the code. All signs at any other location are prohibited. (Ord. No. 92-9, § I, 3-24-92)

Sec. 15-85. Enforcement; abatement generally.

(a) Enforcement of this article shall be performed by the city code enforcement department and the city police department.

(b) It shall constitute an offense to conduct a car wash without having obtained a permit as required in this article.

(1) Upon determination by an officer that a car wash is being conducted without a valid permit, the officer shall inform the owner or lessee of the premises where the car wash is taking place, or the employee in charge of the premises at the time of the violation, that the car wash is being operated unlawfully.

(2) The officer shall also notify said person to cause such unlawful activity to cease immediately, and that all persons associated with said car wash must be dispersed within one (1) hour after the giving of said notice.

(Ord. No. 92-9, § I, 3-24-92; Ord. No. 98-18, § I, 3-24-98)

Sec. 15-86. Failure or refusal to abate.

Failure or refusal by an owner, lessee, or individual in charge of premises to cause a car wash to cease operations, after being given notice under section 15-85(b) above, shall constitute a

separate violation of this article. (Ord. No. 92-9, § I, 3-24-92)

Sec. 15-87. Each hour subsequent offense.

After notice that an illegal car wash is being held, any person continuing to hold such car wash shall be guilty of a separate offense for each whole hour after the initial hour given to abate the car wash. (Ord. No. 92-9, § I, 3-24-92)

Sec. 15-88. Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8. A violation of this article shall be considered as a violation of a provision governing public health and sanitation. (Ord. No. 92-9, § I, 3-24-92)

Sec. 15-89. Reserved.

ARTICLE V. TENT SALES

Sec. 15-90. Definitions.

(1) The term *commercial* or *business* as used herein shall mean the act of selling, offering for sale, giving away, soliciting orders for, displaying, presenting, modeling, demonstrating, storing, or warehousing tangible personal property.

(2) The term *location* shall mean and be determined by common street address.

(3) The term *tent* as used herein shall mean any structure, enclosure, or shelter constructed of canvas or pliable material supported by any manner except by air or the contents it protects, which covers more than one hundred twenty (120) square feet of ground surface.
(Ord. No. 97-2, § I, 1-14-97)

Sec. 15-91. Penalty.

A violation of this article shall be punished as provided in section 1-8. (Ord. No. 97-2, § I, 1-14-97)

Sec. 15-92. Permit required and conditions of use.

Use of tents for commercial or business purposes shall be allowed under the following conditions and procedures:

- (a) No person shall use a tent for commercial or business purposes within the city limits without first obtaining a permit under this article.
- (b) Any person desiring to use a tent for such purpose shall apply to the building and development office for a permit. The application shall state: the name of the person conducting the activity; the proposed location of the tent; the name of the owner of the property where the tent is to be located; the nature of the intended activity; and the proposed dates of use; and other pertinent information on the form.
- (c) The building and development department shall charge and collect a fee before issuance of a permit, in an amount set by the city council.

- (d) Tents may be used for commercial or business purposes only at locations which are properly zoned for the nature of commercial or business activity to be conducted at or in the tent.
 - (e) There shall not be more than one (1) permit issued to a person, or for a location, within a period of twelve (12) consecutive months.
 - (f) A permit for the commercial or business use of a tent shall be for a period not to exceed fifteen (15) consecutive calendar days. The commercial or business activity must cease not later than midnight of the fifteenth day. The permittee must remove the tent from the location not later than 5:00 o'clock p.m. of the next following day. However, any such permit issued for an activity commencing on the Friday, Saturday, or Sunday immediately preceding Thanksgiving shall be effective from that date until midnight, December 25 that year, and the tent removed by 5:00 o'clock p.m., December 26.
 - (g) All tents used for commercial and business purposes must otherwise comply with all applicable fire, safety, and other codes in effect during the dates of the permitted activity.
 - (h) If the activity ceases, closes, or is terminated for any reason prior to the expiration of the permit, there shall be no refund of the above fee.
 - (i) A copy of the permit shall be conspicuously posted at or upon the tent entrance at all hours during the approved dates of the activity.
- (Ord. No. 97-2, § I, 1-14-97; Ord. No. 98-65, § I, 9-22-98)

Sec. 15-93. Abatement.

A person using a tent for commercial or business purposes without complying with any provision of this article; or who gives false, misleading, or incomplete information on an application, shall within one (1) hour of notice of violation either obtain the required permit for a fee in an amount which is triple the normal fee, or immediately cease and desist from all activity covered by this article, and remove the tent from the premises before midnight of that day. (Ord. No. 97-2, § I, 1-14-97)

Sec. 15-94. Offenses.

(a) Failing or refusing to obtain the permit or to abate after receiving notice is a violation of this article and a criminal offense.

(b) Each hour an activity continues, after the one (1) hour period following notice, shall be a separate violation and a criminal offense.
(Ord. No. 97-2, § I, 1-14-97)

Sec. 15-95. Transition.

Any person already using a tent for commercial or business purposes on the date this ordinance becomes effective must either apply for and receive a permit, or cease the use and remove the tent, not later than 5:00 o'clock p.m. on the seventh (7th) calendar day after the effective date. (Ord. No. 97-2, § I, 1-14-97)

Sec. 15-96. Exclusion.

This article does not apply to:

- (a) A tent used by a governmental entity, public utility, or tax exempt not-for-profit organization formed for educational, philanthropic, scientific, or religious purposes. However, such entities and organizations shall comply with all other ordinances and laws applicable to their activity and the use of tents for the public.
- (b) A tent, shed or canopy used for the display of vehicles, which are otherwise regulated by provisions of the adopted Standard Building Code, as amended.

(Ord. No. 97-2, § I, 1-14-97)

Secs. 15-97—15-99. Reserved.

Editor's note—Ordinance No. 02-51, § I, adopted October 29, 2002, repealed §§ 15-100—15-103 in its entirety. Formerly, said sections pertained to registration of retail electric providers and derived from Ordinance No. 01-60, § I, adopted December 21, 2001.

ARTICLE VI. SECONDHAND DEALERS

Sec. 15-100. Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings.

- (a) *Business day* shall mean Monday through Friday with exception of city holidays.
- (b) *Minor* shall mean a person under the age of seventeen (17) years of age.
- (c) *Precious metal* shall mean gold, silver, or platinum.
- (d) *Secondhand dealer or dealer* shall mean a person, partnership or corporation whose business at any location or site, including internet based businesses, consists of the collecting, handling, buying, trading or selling of used or secondhand merchandise from precious metals, gems, luggage, musical instruments, firearms as defined by Texas Penal Code, electronics and other wares and merchandise handled by secondhand dealers in the usual course of trade.

The term secondhand dealer shall not mean any person, partnership or corporation whose business consists only of the sale, purchase, or handling of new goods or merchandise, any person conducting a lawful garage sale under chapter 15, any person, partnership or corporation operating a licensed pawn shop, unless stated otherwise, or businesses operating exclusively as automotive dealers.

- (e) *Used* shall mean any item, article or good which has been previously owned by someone other than the manufacturer or a dealer whose business it is to sell such items, articles or goods when new to the consumer.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-101. License requirements.

No secondhand dealer shall transact or engage in business within the city without a license. Any person who engages in more than one business described herein at separate locations must

obtain a license for each permanent location of any such business. The license may be procured by complying with the following provisions.

(1) An applicant shall make a request for a license by filing in writing to the Killeen police department records section on a form to be furnished by the city. The application shall contain the following:

- (a) Full Name
- (b) Address of business
- (c) Date of birth, height, weight, color of hair and eyes
- (d) Physical residence address
- (e) Whether the applicant has been convicted of a violation of a state or federal statute involving criminal offenses of theft, tampering with or fabricating physical evidence, tampering with a governmental record, or fraud
- (f) In the case of a firm or corporation, the individual members of the partnership or officers of the corporation.
- (g) Signature by the applicant if an individual, by a partner if a partnership, by the president or vice-president if a corporation, or by an authorized officer if an association.

(2) Upon receipt of an application, the records section shall immediately forward it to the city manager for review. The city manager must approve or deny the application within 10 (ten) days. The city manager must make the decision based upon the standards for issuance stated in this article.

(3) The license shall be subject to all provisions and regulations of this code and other ordinances of the city.

(4) Such application shall be notarized.

(5) The fee for a license is twenty-five dollars (\$25.00) except that the fee may be waived for a 501(3)(c) non-profit organization that presents proof of such status.

(6) The duration for said license is two (2) years from date of issuance.

(7) No license may be sold, transferred or assigned.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-102. Grounds for denial of license.

The city manager may reject an original application, an application for the renewal of an existing license, if, as a result of investigation, it is determined:

- (1) applicant's place of business is not in compliance with any city of Killeen ordinances,
- (2) applicant has had previous failures to comply with this article within the last two years,
- (3) applicant is shown to have been untruthful on his application,
- (4) applicant is shown to have violated any state or federal statute involving the criminal offense of theft, tampering with or fabricating physical evidence, tampering with governmental record, or fraud.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-103. Change in business name or address.

Should any licensee change the name of his business or move his place of business from the

place designated in such license to a new address, he shall immediately make application to the records section of the Killeen police department for a new license and pay the full license fee. If the new application is approved, a new license reflecting the new business name or address shall be issued. The original license must be surrendered to the records section at the time a new license is issued to the licensee. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-104. Revocation of license.

After the license required under this article has been issued, the license may be revoked by the city manager if:

- (1) It is found the license was obtained with a false representation in the application; or
- (2) It is determined, after investigation by the Killeen police department under supervision of the chief of police, that the license holder, or an employee acting on behalf of the license holder, violated any provision of this chapter or any state or federal statute involving the criminal offense of theft, tampering with or fabricating physical evidence, tampering with governmental record, or fraud.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-105. Appeal of denial or revocation of license.

If a secondhand dealer wishes to appeal a denial or revocation of license, they may appeal to the city council in the following manner:

- (1) A written letter of appeal, signed by the license applicant or holder, stating the grounds therefore, shall be delivered to and filed with the city manager's office.
- (2) A true copy of the application refused or license revoked shall be attached to the petition.
- (3) The city manager shall place a copy of the appeal letter and application, along with any pertinent documents, on the agenda for the next regular city council meeting.
- (4) The council shall consider the contents of the application or revocation; the city manager's letter stating the reasons for denial or revocation; the letter of appeal; the facts surrounding the matter as shown by testimony of parties; any argument of counsel; and the standards for issuance stated in this article.
- (5) It shall be presumed that the only reasons for denial or revocation are those set out in the city manager's written explanation.
- (6) The city council may consider an appeal at that meeting or set a date, time, and place for a hearing on each appeal, and shall notify the appealing individual or person thereof.
- (7) The order of procedure upon such hearing is as follows:
 - (a) The city attorney, or a person designated to do so, shall present any evidence justifying the denial or revocation.
 - (b) The appellant or appellant's attorney shall have the right to cross-examine any witness and see any documents relied upon by any witness testifying, and to challenge or object to such evidence.
 - (c) The appellant or appellant's attorney shall thereafter present any rebutting evidence justifying consideration and approval of the application or rebutting the revocation.
 - (d) The city attorney shall have the right of cross-examination and inspection.
 - (e) Both the appellant and the city may offer rebuttal evidence.
 - (f) The appellant shall open and close argument.

(g) The mayor or other person presiding shall determine what evidence will be accepted. The city council is not a court and is not bound by nor required to follow formal rules of evidence or judicial procedure, beyond those described in paragraphs (a) – (f) above. The council will not debate questions of law or admissibility.

(8) By majority vote, the city council shall either affirm the city manager's denial, or revocation, or vote to reverse the city manager and grant the license.

(9) If the city council affirms the manager's decision, it shall have prepared written findings of fact and references to this division, specifically indicating the reason or reasons justified, supporting the decision.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-106. License to be available for inspection.

The license shall be posted in a conspicuous place upon the licensed premises. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-107. Seller must attest to ownership.

Secondhand dealers must require all sellers to sign a written statement attesting to ownership of property. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-108. Records required of secondhand dealers.

(1) All secondhand dealers shall use either manual log forms or enter information electronically through Leads Online in connection with their business.

(a) The log forms must be in the format provided by the city of Killeen police department or

(b) The dealer may register and complete a Leads Online agreement to upload the sales records to the Leads Online database website.

(2) The log forms must contain:

(a) An accurate description of items purchased, including serial numbers

(b) Name, address and drivers license (or other official government ID) of seller

(c) Physical description of seller, including sex, eye color, race, height and weight

(d) Date and time of purchase

(e) Motor vehicle license of vehicle that delivered items

(f) Amount of consideration paid to seller, and

(g) Signature of seller and dealer.

(3) Each part of the log form must be numbered sequentially by the supplier of the log form.

(4) Log forms must be three-part forms. Manual entries to the top copy must be legible and simultaneously reproduced on the remaining parts.

(5) Log forms must be in ink.

(6) Log forms shall be available for inspection by any Killeen police officer upon request during normal business hours.

(7) Log forms must be retained for a period of not less than three (3) years.

(8) It shall be a violation of this article to alter or obliterate any entry on a log form.
(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-109. Weekly report to be furnished to police department.

All secondhand dealers and licensed pawn shops shall furnish a weekly report to the chief of police which consists of a full and complete legible copy of their log forms, as required under this article, by each Monday at 12:00 noon, or in the case where Monday is a holiday, the next business day at 12:00 noon. Dealers who choose to use the Leads Online program do not have to file a weekly report. Any such dealer using a manual recording system who refuses or fails to furnish such log forms shall be deemed guilty of a violation of this section. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-110. Acceptance of air conditioning unit parts.

It shall be unlawful for any secondhand dealer to purchase or receive any central air conditioning unit parts from any person offering such property for sale unless the person presents a valid state-issued professional license or a permit issued by the city to a homeowner for the installation, alteration, or repair of an air-conditioning system at a particular address. This provision shall not apply to window air conditioning units. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-111. Purchasing or receiving goods from minors.

(1) No secondhand dealer shall purchase or otherwise receive in the course of business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor is accompanied by his parent or guardian, who shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent.

(2) Dealer must retain and make available for inspection such written statements of consent for a period of not less than three (3) years.
(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-112. Stock to be open for examination.

Each item purchased by or deposited with the secondhand dealer shall be open to inspection by any Killeen police officer during normal business hours. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-113. Manufacturer's identification and/or serial number or brand removed or obliterated.

(1) A secondhand dealer shall not purchase or have in his possession any item from which the manufacturer's identification and/or serial number or brand has been altered, removed or obliterated.

(2) If a police officer finds any item in the possession of a secondhand dealer from which the manufacturer's identification and/or serial number or brand has been altered, removed or obliterated, he may seize such property and hold it at the police department for thirty (30) days. At the time of the seizure of such property, the police officer shall issue the owner a receipt for the property notifying him that the property may be redeemed in thirty (30) days at the police department unless it is otherwise allowed by law to be held.

(Ord. No. 08-105, § I, 12-16-08)

Sec. 15-114. Police investigative-hold demand stopping sale or disposal of property.

A police officer shall have the right, upon written demand addressed to a particular secondhand dealer, to stop the sale or removal or redelivery of any property for a stated period of time or until the property is released by such officer. After receipt of such demand, it shall be unlawful for a secondhand dealer to sell, dispose of, remove or redeliver such property until the property is released by the officer issuing the demand. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-115. Retention period.

Each secondhand item purchased by or deposited with the dealer shall be retained in its original form, shape and condition for a period of seven (7) business days after such purchase or deposit during which time said item shall not be sold or permitted to be redeemed or removed from the place of business or such dealer. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-116. Responsibility of secondhand dealers for employees or agents.

Any owner, manager or operator of the business regulated under this article whose employees or agents fail to observe any of the provisions of this article shall be equally guilty with the offender and subject to the same penalties. (Ord. No. 08-105, § I, 12-16-08)

Sec. 15-117. Penalty.

(1) Any person, firm or corporation violating a provision of this article shall be guilty of a Class C misdemeanor and shall, upon conviction, be subject to a fine of not less than seventy-five dollars (\$75.00), nor more than five-hundred dollars (\$500.00).

(2) A violation constitutes a separate offense for each regulated item involved.

(3) A violation constitutes a separate offense for each day violation continues.
(Ord. No. 08-105, § I, 12-16-08)