

# State Laws and Published Ordinances – Oregon

Current through the 2019 Regular Session.

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**Title 16 – Crimes and Punishments**  
**Chapter 163 – Offenses Against Persons**  
**Stalking**

**Section 163.738. Effect of citation; contents; hearing; court's order; use of statements made at hearing.**

(2)

(b) In the order, the court shall specify the conduct from which the respondent is to refrain, which may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS 163.730. The order is of unlimited duration unless limited by law. If the respondent was provided notice and an opportunity to be heard, the court shall also include in the order, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the respondent's ability to possess firearms and ammunition or engage in activities involving firearms.

**Possession and Use of Weapons**

**Section 166.210. Definitions.**

As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410 to 166.470:

(1) **"Antique firearm"** means:

(a) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured in or before 1898; and

(b) Any replica of any firearm described in paragraph (a) of this subsection if the replica:

(A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade.

(2) **"Corrections officer"** has the meaning given that term in ORS 181.610.

(3) **"Firearm"** means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

(4) **"Firearms silencer"** means any device for silencing, muffling or diminishing the report of a firearm.

(5) **"Handgun"** means any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

(6) **"Machine gun"** means a weapon of any description by whatever name known, loaded or unloaded, which is designed or modified to allow 2 or more shots to be fired by a single pressure on the trigger device.

(7) **"Minor"** means a person under 18 years of age.

(8) **"Offense"** has the meaning given that term in ORS 161.505.

(9) **"Parole and probation officer"** has the meaning given that term in ORS 181.610.

(10) **"Peace officer"** has the meaning given that term in ORS 133.005.

(11) **"Short-barreled rifle"** means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle if the weapon has an overall length of less than 26 inches.

(12) **"Short-barreled shotgun"** means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if the weapon has an overall length of less than 26 inches.

**Section 166.250. Unlawful possession of firearms.**

(1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470 a person commits the crime of unlawful possession of a firearm if the person knowingly:

(c) Possesses a firearm and:

(A) Is under 18 years of age;

(B)

(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and

(ii) Was discharged from the jurisdiction of the juvenile court within 4 years prior to being charged under this section;

- (C) Has been convicted of a felony;
- (D) Was committed to the Oregon Health Authority under ORS 426.130;
- (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- (F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm; or
- (G) Has been found guilty except for insanity under ORS 161.295 of a felony; or
- (H) The possession of the firearm by the person is prohibited under ORS 166.255.

(2) This section does not prohibit:

(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

(A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or

(B) Temporarily for hunting, target practice or any other lawful purpose; or

(b) Any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270 and subsection (1) of this section, from owning, possessing or keeping within the person's place of residence or place of business any handgun, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "**residence**" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.

(5) Unlawful possession of a firearm is a Class A misdemeanor.

#### **Section 166.255. Possession of firearm or ammunition by certain persons prohibited.**

(1) It is unlawful for a person to knowingly possess a firearm or ammunition if:

(a) The person is the subject of a court order that:

(A)

(i) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard; or

(ii) Was issued, continued or remains in effect, by order or operation of law, after the person received notice of the opportunity to request a hearing in which to be heard on the order, and either requested a hearing but did not attend the hearing or withdrew the request before the hearing occurred, or did not request a hearing during the time period in which the opportunity was available;

(B) Restrains the person from stalking, intimidating, molesting or menacing a family or household member of the person, a child of a family or household member of the person or a child of the person; and

(C) Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person;

(b) The person has been convicted of a qualifying misdemeanor and, at the time of the offense, the person was:

(A) A family or household member of the victim of the offense; or

(B) A parent or guardian of the victim of the offense; or

(c) The person has been convicted of stalking under ORS 163.732.

(2) The prohibition described in subsection (1)(a) of this section does not apply with respect to the transportation, shipment, receipt, possession or importation of any firearm or ammunition imported for, sold or shipped to or issued for the use of the United States Government or any federal department or agency, or any state or department, agency or political subdivision of a state.

(3) As used in this section:

(a) "**Convicted**" means:

(A) The person was represented by counsel or knowingly and intelligently waived the right to counsel;

(B) The case was tried to a jury, if the crime was one for which the person was entitled to a jury trial, or the person knowingly and intelligently waived the person's right to a jury trial; and

(C) The conviction has not been set aside or expunged, and the person has not been pardoned.

(b) **"Deadly weapon"** has the meaning given that term in ORS 161.015.

(c) **"Family or household member"** has the meaning given that term in ORS 135.230.

(d) **"Possess"** has the meaning given that term in ORS 161.015.

(e) **"Qualifying misdemeanor"** means a misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon.

**Section 166.260. Persons not affected by ORS 166.250.**

(1) ORS 166.250 does not apply to or affect:

(a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181.610.

(b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181.610, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) The possession or transportation by any merchant of unloaded firearms as merchandise.

(f) Active or reserve members of:

(A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;

(B) The commissioned corps of the National Oceanic and Atmospheric Administration; or

(C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.

(g) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(h) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.

(3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses to a charge of violating ORS 166.250.

**Section 166.270. Possession of weapons by certain felons.**

(1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm commits the crime of felon in possession of a firearm.

(3) For the purposes of this section, a person "has been convicted of a felony" if, at the time of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it was committed. Such conviction shall not be deemed a conviction of a felony if:

(a) The court declared the conviction to be a misdemeanor at the time of judgment; or

(b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

(4) Subsection (1) of this section does not apply to any person who has been:

(a) Convicted of only one felony under the law of this state or any other state, or who has been convicted of only 1 felony under the laws of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon having a blade that projects or swings into position by force of a spring or by centrifugal force, and who has been discharged from imprisonment, parole or probation for said offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section; or

(b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS 166.274 or has had the person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

(5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted weapon is a Class A misdemeanor.

**Section 166.272. Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.**

(1) A person commits the crime of unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer if the person knowingly possesses any machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer.

(2) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is a Class B felony.

(3) A peace officer may not arrest or charge a person for violating subsection (1) of this section if the person has in the person's immediate possession documentation showing that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is registered as required under federal law.

(4) It is an affirmative defense to a charge of violating subsection (1) of this section that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer was registered as required under federal law.

**Section 166.273. Relief from firearm prohibitions related to mental health.**

(1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

(b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f) or, if the person has been found guilty except for insanity of a misdemeanor involving violence, ORS 166.470 (1)(g); or

(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

(2) The petitioner shall serve a copy of the petition on:

(a) The Department of Human Services and the Oregon Health Authority; and

(b) The district attorney in each county in which:

(A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a court as a person with mental illness, under ORS 426.130;

(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as in need of commitment for residential care, treatment and training, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order. Board members from the adult panel, the juvenile panel or a combination of both panels of the board may conduct the hearings described in this section.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

**(6)** If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in ORS 181A.290, to enable the department to:

- (a)** Maintain the information and transmit the information to the federal government as required under federal law; and
- (b)** Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e), (f) or (g).

**(7)** The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

**(8)** A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

**(9)** A person may file a petition for relief under this section no more than once every two years.

**(10)** The board shall adopt procedural rules to carry out the provisions of this section.

**(11)** As used in this section, "state mental health determination" means:

- (a)** A finding by a court that a person lacks fitness to proceed under ORS 161.370;
- (b)** A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;
- (c)** A commitment by a court to the Oregon Health Authority, or an adjudication by a court that a person is a person with mental illness, under ORS 426.130; or
- (d)** A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is in need of commitment for residential care, treatment and training, under ORS 427.290.

**Section 166.274. Relief from prohibition against possessing or purchasing firearm; fees.**

**(1)** Except as provided in subsection (11) of this section, a person barred from possessing or receiving a firearm may file a petition for relief from the bar in accordance with subsection (2) of this section if:

- (a)** The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A) or (C) or 166.270; or
- (b)** The person is barred from receiving a firearm under ORS 166.470 (1)(a) or (b) or, if the person has been convicted of a misdemeanor involving violence, ORS 166.470 (1)(g).

**(2)** A petition for relief described in this section must be filed in the circuit court in the petitioner's county of residence.

**(3)** A person may apply once per calendar year for relief under the provisions of this section.

**(4)**

**(a)** A person petitioning for relief under this section shall serve a copy of the petition on:

- (A)** The city chief of police if the court in which the petition is filed is located in a city; or
- (B)** The sheriff of the county in which the court is located.

**(b)** The copy of the petition shall be served on the chief of police or sheriff at the same time the petition is filed at the court.

**(5)**

**(a)** When a petition is denied, the judge shall cause that information to be entered into the Department of State Police computerized criminal history files.

**(b)** When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

**(6)** Notwithstanding the provisions of ORS 9.320, a party that is not a natural person, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

**(7)** If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

(8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall then make findings and conclusions and issue a judgment based on the findings and conclusions in accordance with the requirements of law.

(9) A person filing a petition under this section must pay the filing fee established under ORS 21.135.

(10)

(a) Initial appeals of petitions shall be heard de novo.

(b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the same manner as for any other civil action.

(c) If the governmental entity files an appeal under this subsection and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party.

(11) The court may not grant relief under this section to a person who:

(a) Has been convicted of a person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission, or the statutory counterpart to a person felony in any other jurisdiction, if the offense involved the use of a firearm or a deadly weapon as defined in ORS 161.015;

(b) Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart to an offense listed in ORS 137.700 in any other jurisdiction; or

(c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony sentence in the one-year period preceding the filing of the petition.

#### **Section 166.350. Unlawful possession of armor piercing ammunition.**

(1) A person commits the crime of unlawful possession of armor piercing ammunition if the person:

(a) Makes, sells, buys or possesses any handgun ammunition the bullet or projectile of which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, such person having the intent that the ammunition be used in the commission of a felony; or

(b) Carries any ammunition described in paragraph (a) of this subsection while committing any felony during which the person or any accomplice of the person is armed with a firearm.

(2) As used in this section, "handgun ammunition" means ammunition principally for use in pistols or revolvers notwithstanding that the ammunition can be used in some rifles.

(3) Unlawful possession of armor piercing ammunition is a Class A misdemeanor.

#### **Possession of Weapon or Destructive Device in Public Building or Court Facility**

#### **Section 166.382. Possession of destructive device prohibited; exceptions.**

(1) A person commits the crime of unlawful possession of a destructive device if the person possesses:

(a) Any of the following devices with an explosive, incendiary or poison gas component:

(A) Bomb;

(B) Grenade;

(C) Rocket having a propellant charge of more than 4 ounces;

(D) Missile having an explosive or incendiary charge of more than one-quarter ounce; or

(E) Mine; or

(b) Any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) of this subsection and from which a destructive device may be readily assembled.

(2) As used in this section:

(a) "**Destructive device**" does not include any device which is designed primarily or redesigned primarily for use as a signaling, pyrotechnic, line throwing, safety or similar device.

(b) "**Possess**" has the meaning given that term in ORS 161.015.

(3) This section does not apply to:

(a) Persons who possess explosives as provided in ORS 480.200 to 480.290.



(b) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized fire or police department of a public agency while engaged in the performance of official duties.

(c) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation.

(d) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480.200 to 480.290.

(4) Possession of a destructive device is a Class C felony.

#### **Section 166.384. Unlawful manufacture of destructive device.**

(1) A person commits the crime of unlawful manufacture of a destructive device if the person assembles, produces or otherwise manufactures:

(a) A destructive device, as defined in ORS 166.382; or

(b) A pyrotechnic device containing 2 or more grains of pyrotechnic charge in violation of chapter 10, Title 18 of the United States Code.

(2) Unlawful manufacture of a destructive device is a Class C felony.

#### **Sale or Transfer of Firearms**

#### **Section 166.410. Manufacture, importation or sale of firearms.**

Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or offers, exposes for sale, or sells or transfers a handgun, short-barreled rifle, short-barreled shotgun, firearms silencer or machine gun, otherwise than in accordance with ORS 166.250, 166.260, 166.270, 166.291, 166.292, 166.425, 166.450, 166.460 and 166.470, is guilty of a Class B felony.

#### **Section 166.412. Definitions; firearms transaction record; criminal record check; rules.**

(1) As used in this section:

(a) "**Antique firearm**" has the meaning given that term in 18 U.S.C. 921;

(b) "**Department**" means the Department of State Police;

(c) "**Firearm**" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;

(d) "**Firearms transaction record**" means the firearms transaction record required by 18 U.S.C. 921 to 929;

(e) "**Firearms transaction thumbprint form**" means a form provided by the department under subsection (11) of this section;

(f) "**Gun dealer**" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise; and

(g) "**Purchaser**" means a person who buys, leases or otherwise receives a firearm from a gun dealer.

(2) Except as provided in subsections (3)(c) and (12) of this section, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(a) The purchaser shall present to the gun dealer current identification meeting the requirements of subsection (4) of this section.

(b) The gun dealer shall complete the firearms transaction record and obtain the signature of the purchaser on the record.

(c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to be filed with that copy.

(d) The gun dealer shall request by telephone that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:

(A) The federal firearms license number of the gun dealer;

(B) The business name of the gun dealer;

(C) The place of transfer;

(D) The name of the person making the transfer;

**(E)** The make, model, caliber and manufacturer's number of the firearm being transferred;

**(F)** The name and date of birth of the purchaser;

**(G)** The Social Security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and

**(H)** The type, issuer and identification number of the identification presented by the purchaser.

**(e)** The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

**(f)** The gun dealer may destroy the firearms transaction thumbprint form 5 years after the completion of the firearms transaction thumbprint form.

**(3)**

**(a)** Upon receipt of a request of the gun dealer for a criminal history record check, the department shall immediately, during the gun dealer's telephone call or by return call:

**(A)** Determine, from criminal records and other information available to it, whether the purchaser is disqualified under ORS 166.470 from completing the purchase; and

**(B)** Notify the gun dealer when a purchaser is disqualified from completing the transfer or provide the gun dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

**(b)** If the department is unable to determine if the purchaser is qualified or disqualified from completing the transfer within 30 minutes, the department shall notify the gun dealer and provide the gun dealer with an estimate of the time when the department will provide the requested information.

**(c)** If the department fails to provide a unique approval number to a gun dealer or to notify the gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close of the gun dealer's next business day following the request by the gun dealer for a criminal history record check, the gun dealer may deliver the firearm to the purchaser.

**(4)**

**(a)** Identification required of the purchaser under subsection (2) of this section shall include 1 piece of current identification bearing a photograph and the date of birth of the purchaser that:

**(A)** Is issued under the authority of the United States Government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

**(B)** Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

**(b)** If the identification presented by the purchaser under paragraph (a) of this subsection does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser. The Superintendent of State Police may specify by rule the type of identification that may be presented under this paragraph.

**(c)** The department may require that the gun dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.

**(5)** The department shall establish a telephone number that shall be operational 7 days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from gun dealers for a criminal history record check under this section.

**(6)** No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section provided the employee, official or agency acts in good faith and without malice.

**(7)**

**(a)** The department may retain a record of the information obtained during a request for a criminal history record check for no more than 5 years.

**(b)** The record of the information obtained during a request for a criminal history record check by a gun dealer is exempt from disclosure under public records law.

**(c)** If the department determines that a purchaser is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer, the purchaser's name and any other personally identifiable

information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over the location or locations where the attempted transfer was made and where the purchaser resides.

**(d)** If the department determines that, based on the judgment of conviction, the purchaser is prohibited from possessing a firearm as a condition of probation or that the purchaser is currently on post-prison supervision or parole, the department shall report the attempted transfer to the purchaser's supervising officer and the district attorney of the county in which the conviction occurred.

**(e)** If the department determines that the purchaser is prohibited from possessing a firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the court that issued the order.

**(f)** If the department determines that the purchaser is under the jurisdiction of the Psychiatric Security Review Board, the department shall report the attempted transfer to the board.

**(g)** Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours after the determination is made, unless a report would compromise an ongoing investigation, in which case the report may be delayed as long as necessary to avoid compromising the investigation.

**(h)** On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's office that received a report pursuant to paragraph (c) of this subsection during the previous calendar year shall inform the department of any action that was taken concerning the report and the outcome of the action.

**(i)** The department shall annually publish a written report, based on any information received under paragraph (h) of this subsection, detailing the following information for the previous year:

**(A)** The number of purchasers whom the department determined were prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohibition;

**(B)** The number of reports made pursuant to paragraph (c) of this subsection;

**(C)** The number of investigations arising from the reports made pursuant to paragraph (c) of this subsection, the number of investigations concluded and the number of investigations referred for prosecution, all arranged by category of prohibition; and

**(D)** The number of criminal charges arising from the reports made pursuant to paragraph (c) of this subsection and the disposition of the charges, both arranged by category of prohibition.

**(8)** A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

**(9)** When a firearm is delivered, it shall be unloaded.

**(10)** In accordance with applicable provisions of ORS chapter 183, the Superintendent of State Police may adopt rules necessary for:

**(a)** The design of the firearms transaction thumbprint form;

**(b)** The maintenance of a procedure to correct errors in the criminal records of the department;

**(c)** The provision of a security system to identify gun dealers that request a criminal history record check under subsection (2) of this section; and

**(d)** The creation and maintenance of a database of the business hours of gun dealers.

**(11)** The department shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

**(12)** This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. 923.

**(13)**

**(a)** If requested by a transferor who is not a gun dealer, a gun dealer may request a criminal background check pursuant to ORS 166.438 or § 2 of this 2015 Act and may charge a reasonable fee for providing the service.

**(b)** A gun dealer that requests a criminal background check under this subsection is immune from civil liability for any use of the firearm by the recipient or transferee, provided that the gun dealer requests the criminal background check as described in this section.

#### **Section 166.414. Fees for conducting criminal history record checks.**

**(1)** The Department of State Police may adopt a fee schedule for criminal history record checks required under ORS 166.412 and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to

recover the cost of performing criminal history record checks required under ORS 166.412, but may not exceed \$10 per record check.

**Section 166.416. Providing false information in connection with a transfer of a firearm.**

(1) A person commits the crime of providing false information in connection with a transfer of a firearm if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a firearm.

(2) Providing false information in connection with a transfer of a firearm is a Class A misdemeanor.

**Section 166.418. Improperly transferring a firearm.**

(1) A person commits the crime of improperly transferring a firearm if the person is a gun dealer as defined in ORS 166.412 and sells, leases or otherwise transfers a firearm and intentionally violates ORS 166.412.

(2) Improperly transferring a firearm is a Class A misdemeanor.

**Section 166.425. Unlawfully purchasing a firearm.**

(1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

(2) Unlawfully purchasing a firearm is a Class A misdemeanor.

**Section 166.427. Register of transfers of used firearms.**

(1) Whenever a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise, buys or accepts in trade, a used firearm, the person shall enter in a register the time, date and place of purchase or trade, the name of the person selling or trading the firearm, the number of the identification documentation presented by the person and the make, model and manufacturer's number of the firearm. The register shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The duplicate sheet of the register shall, on the day of purchase or trade, be hand delivered or mailed to the local law enforcement authority.

(3) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring a firearm is a Class C misdemeanor.

**Section 166.429. Firearms used in felony.**

Any person who, with intent to commit a felony or who knows or reasonably should know that a felony will be committed with the firearm, ships, transports, receives, sells or otherwise furnishes any firearm in the furtherance of the felony is guilty of a Class B felony.

**Section 166.432. Definitions for ORS 166.412 and 166.433 to 166.441.**

(1) As used in ORS 166.412, 166.433, 166.434, 166.436 and 166.438, "**criminal background check**" or "**criminal history record check**" means determining the eligibility of a person to purchase or possess a firearm by reviewing state and federal databases including, but not limited to, the:

- (a) Oregon computerized criminal history system;
- (b) Oregon mental health data system;
- (c) Law Enforcement Data System;
- (d) National Instant Criminal Background Check System; and
- (e) Stolen guns system.

(2) As used in ORS 166.433, 166.435, 166.436, 166.438 and 166.441:

- (a) "**Gun dealer**" has the meaning given that term in ORS 166.412.
- (b) "**Gun show**" means an event at which more than 25 firearms are on site and available for transfer.

**Section 166.434. Application of ORS 166.412 to all firearm transfers by gun dealers; fees for criminal background checks.**

(1) In addition to the determination required by ORS 166.412 (3)(a)(A), in conducting a criminal background check or criminal history record check, the Department of State Police shall also determine whether the recipient is otherwise prohibited by state or federal law from possessing a firearm.

(2) Notwithstanding ORS 166.412 (5), the department is not required to operate the telephone number established under ORS 166.412 (5) on Thanksgiving Day or Christmas Day.

(3)

(a) The department may charge a fee, not to exceed the amount authorized under ORS 166.414, for criminal background checks required under this section or ORS 166.436 or § 2 of this 2015 Act.

(b) The department shall establish a reduced fee for subsequent criminal background checks on the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m.

#### **Section 166.435. Firearm transfers by unlicensed persons; requirements; exceptions; penalties.**

(1) As used in this section:

(a) **"Transfer"** means the delivery of a firearm from a transferor to a transferee, including, but not limited to, the sale, gift, loan or lease of the firearm. "Transfer" does not include the temporary provision of a firearm to a transferee if the transferor has no reason to believe the transferee is prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and the provision occurs:

(A) At a shooting range, shooting gallery or other area designed for the purpose of target shooting, for use during target practice, a firearms safety or training course or class or a similar lawful activity;

(B) For the purpose of hunting, trapping or target shooting, during the time in which the transferee is engaged in activities related to hunting, trapping or target shooting;

(C) Under circumstances in which the transferee and the firearm are in the presence of the transferor;

(D) To a transferee who is in the business of repairing firearms, for the time during which the firearm is being repaired;

(E) To a transferee who is in the business of making or repairing custom accessories for firearms, for the time during which the accessories are being made or repaired; or

(F) For the purpose of preventing imminent death or serious physical injury, and the provision lasts only as long as is necessary to prevent the death or serious physical injury.

(b) **"Transferee"** means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

(c) **"Transferor"** means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee.

(2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of this section, a transferor may not transfer a firearm to a transferee unless the transfer is completed through a gun dealer as described in subsection (3) of this section.

(3)

(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the transferee must appear in person before a gun dealer, with the firearm, and request that the gun dealer perform a criminal background check on the transferee.

(b) If the transferor and the transferee reside over 40 miles from each other, the transferor may ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated by the transferee, and the transferor need not appear before the gun dealer in person.

(c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request a criminal history record check on the transferee as described in ORS 166.412 and shall comply with all requirements of federal law.

(d) If, upon completion of a criminal background check, the gun dealer:

(A) Receives a unique approval number from the Department of State Police indicating that the transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the firearm into the gun dealer's inventory and transfer the firearm to the transferee.

(B) Receives notification that the transferee is prohibited by state or federal law from possessing or receiving the firearm, the gun dealer shall notify the transferor and neither the transferor nor the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply with federal law when returning the firearm to the transferor.

(e) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant to this section.

(4) The requirements of subsections (2) and (3) of this section do not apply to:

- (a) The transfer of a firearm by or to a law enforcement agency, or by or to a law enforcement officer, private security professional or member of the Armed Forces of the United States, while that person is acting within the scope of official duties.
- (b) The transfer of a firearm as part of a firearm turn-in or buyback event, in which a law enforcement agency receives or purchases firearms from members of the public.
- (c) The transfer of a firearm to:
  - (A) A transferor's spouse or domestic partner;
  - (B) A transferor's parent or stepparent;
  - (C) A transferor's child or stepchild;
  - (D) A transferor's sibling;
  - (E) A transferor's grandparent;
  - (F) A transferor's grandchild;
  - (G) A transferor's aunt or uncle;
  - (H) A transferor's first cousin;
  - (I) A transferor's niece or nephew; or
  - (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this paragraph.
- (d) The transfer of a firearm that occurs because of the death of the firearm owner, provided that:
  - (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS 111.005, or a trustee of a trust created in a will; and
  - (B) The transferee is related to the deceased firearm owner in a manner specified in paragraph (c) of this subsection.

(5)

- (a) A transferor who fails to comply with the requirements of this section commits a Class A misdemeanor.
- (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the requirements of this section commits a Class B felony if the transferor has a previous conviction under this section at the time of the offense.

**Section 166.436. Firearm transfers by persons other than gun dealers; criminal background checks authorized; liability.**

- (1) The Department of State Police shall make the telephone number established under ORS 166.412 (5) available for requests for criminal background checks under this section from persons who are not gun dealers and who are transferring firearms at gun shows.
- (2) Prior to transferring a firearm at a gun show, a transferor who is not a gun dealer may request by telephone that the department conduct a criminal background check on the recipient and shall provide the following information to the department:
  - (a) The name, address and telephone number of the transferor;
  - (b) The make, model, caliber and manufacturer's number of the firearm being transferred;
  - (c) The name, date of birth, race, sex and address of the recipient;
  - (d) The Social Security number of the recipient if the recipient voluntarily provides that number;
  - (e) The address of the place where the transfer is occurring; and
  - (f) The type, issuer and identification number of a current piece of identification bearing a recent photograph of the recipient presented by the recipient. The identification presented by the recipient must meet the requirements of ORS 166.412 (4)(a).

(3)

- (a) Upon receipt of a request for a criminal background check under this section, the department shall immediately, during the telephone call or by return call:

**(A)** Determine from criminal records and other information available to it whether the recipient is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state or federal law from possessing a firearm; and

**(B)** Notify the transferor when a recipient is disqualified from completing the transfer or provide the transferor with a unique approval number indicating that the recipient is qualified to complete the transfer. The unique approval number is a permit valid for 24 hours for the requested transfer. If the firearm is not transferred from the transferor to the recipient within 24 hours after receipt of the unique approval number, a new request must be made by the transferor.

**(b)** If the department is unable to determine whether the recipient is qualified for or disqualified from completing the transfer within 30 minutes of receiving the request, the department shall notify the transferor and provide the transferor with an estimate of the time when the department will provide the requested information.

**(4)** A public employee or public agency incurs no criminal or civil liability for performing the criminal background checks required by this section, provided the employee or agency acts in good faith and without malice.

**(5)**

**(a)** The department may retain a record of the information obtained during a request for a criminal background check under this section for the period of time provided in ORS 166.412 (7).

**(b)** The record of the information obtained during a request for a criminal background check under this section is exempt from disclosure under public records law.

**(c)** If the department determines that a recipient is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer, the recipient's name and any other personally identifiable information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over the location or locations where the attempted transfer was made and where the recipient resides.

**(d)** If the department determines that, based on the judgment of conviction, the recipient is prohibited from possessing a firearm as a condition of probation or that the recipient is currently on post-prison supervision or parole, the department shall report the attempted transfer to the recipient's supervising officer and the district attorney of the county in which the conviction occurred.

**(e)** If the department determines that the recipient is prohibited from possessing a firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the court that issued the order.

**(f)** If the department determines that the recipient is under the jurisdiction of the Psychiatric Security Review Board, the department shall report the attempted transfer to the board.

**(g)** Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours after the determination is made, unless a report would compromise an ongoing investigation, in which case the report may be delayed as long as necessary to avoid compromising the investigation.

**(h)** On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's office that received a report pursuant to paragraph (c) of this subsection during the previous calendar year shall inform the department of any action that was taken concerning the report and the outcome of the action.

**(i)** The department shall annually publish a written report, based on any information received under paragraph (h) of this subsection, detailing the following information for the previous year:

**(A)** The number of recipients whom the department determined were prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohibition;

**(B)** The number of reports made pursuant to paragraph (c) of this subsection;

**(C)** The number of investigations arising from the reports made pursuant to paragraph (c) of this subsection, the number of investigations concluded and the number of investigations referred for prosecution, all arranged by category of prohibition; and

**(D)** The number of criminal charges arising from the reports made pursuant to paragraph (c) of this subsection and the disposition of the charges, both arranged by category of prohibition.

**(6)** The recipient of the firearm must be present when the transferor requests a criminal background check under this section.

**(7)**

**(a)** Except as otherwise provided in paragraph (b) of this subsection, a transferor who receives notification under this section that the recipient is qualified to complete the transfer of a firearm, has the recipient fill out the form required by ORS 166.438 (1)(a) and retains the form as required by ORS 166.438 (2) is immune from civil liability for any use of

the firearm from the time of the transfer unless the transferor knows, or reasonably should know, that the recipient is likely to commit an unlawful act involving the firearm.

(b) The immunity provided by paragraph (a) of this subsection does not apply:

(A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends to deliver the firearm to a third person who the transferor knows, or reasonably should know, may not lawfully possess the firearm; or

(B) In any product liability civil action under ORS 30.900 to 30.920.

#### **Section 166.438. Transfer of firearms at gun shows.**

(1) A transferor who is not a gun dealer may not transfer a firearm at a gun show unless the transferor:

(a)

(A) Requests a criminal background check under ORS 166.436 prior to completing the transfer;

(B) Receives a unique approval number from the Department of State Police indicating that the recipient is qualified to complete the transfer; and

(C) Has the recipient complete the form described in ORS 166.441; or

(b) Completes the transfer through a gun dealer.

(2) The transferor shall retain the completed form referred to in subsection (1) of this section for at least 5 years and shall make the completed form available to law enforcement agencies for the purpose of criminal investigations.

(3) A person who organizes a gun show shall post in a prominent place at the gun show a notice explaining the requirements of subsections (1) and (2) of this section. The person shall provide the form required by subsection (1) of this section to any person transferring a firearm at the gun show.

(4) Subsection (1) of this section does not apply if the transferee is licensed as a dealer under 18 U.S.C. 923.

(5)

(a) Failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class C felony if the person has 2 or more previous convictions under this section.

(6) It is an affirmative defense to a charge of violating subsection (1) or (3) of this section that the person did not know, or reasonably could not know, that more than 25 firearms were at the site and available for transfer.

#### **Section 166.450. Obliteration or change of identification number on firearms.**

Any person who intentionally alters, removes or obliterates the identification number of any firearm for an unlawful purpose, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm is presumptive evidence that the possessor has altered, removed or obliterated the identification number.

#### **Section 166.460. Antique firearms excepted.**

(1) ORS 166.250, 166.260, 166.291 to 166.295, 166.410, 166.412, 166.425, 166.434, 166.438 and 166.450 do not apply to antique firearms.

(2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique firearm by a person described in ORS 166.250 (1)(c)(B) to (D) or (G) constitutes a violation of ORS 166.250.

#### **Section 166.470. Limitations and conditions for sales of firearms.**

(1) Unless relief has been granted under ORS 166.274 or § 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

(a) Is under 18 years of age;

(b) Has been convicted of a felony;

(c) Has any outstanding felony warrants for arrest;

(d) Is free on any form of pretrial release for a felony;

(e) Was committed to the Oregon Health Authority under ORS 426.130;



(f) After January 1, 1990, was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity under ORS 161.295 of a misdemeanor involving violence within the previous 4 years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b);

(h) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm; or

(i) Has been found guilty except for insanity under ORS 161.295 of a felony.

(2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.

(3) Subsection (1)(a) of this section does not prohibit:

(a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or

(b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

(4) Violation of this section is a Class A misdemeanor.

#### **Section 166.490. Purchase of firearms in certain other states.**

(1) As used in this section, unless the context requires otherwise:

(a) "**Contiguous state**" means California, Idaho, Nevada or Washington.

(b) "**Resident**" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that § 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded.

### **Extreme Risk Protection Orders**

#### **Section 166.525. Definitions.**

As used in sections 1 to 8 of this 2017 Act:

(1) "**Deadly weapon**" means:

(a) Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury; or

(b) A firearm, whether loaded or unloaded.

(2) "**Family or household member**" means a spouse, intimate partner, mother, father, child or sibling of the respondent, or any person living within the same household as the respondent.

(3) "**Gun dealer**" has the meaning given that term in ORS 166.412.

(4) "**Law enforcement agency**" means an agency or department of the State of Oregon or of a political subdivision of the State of Oregon whose principal function is the apprehension of criminal offenders.

(5) "**Law enforcement officer**" means a member of the Oregon State Police, a sheriff, a municipal police officer or an authorized tribal police officer as defined in ORS 181A.680.

(6) "**Petitioner**" means a person who petitions for an order under sections 1 to 8 of this 2017 Act.

(7) "**Respondent**" means a person against whom an order is filed under sections 1 to 8 of this 2017 Act.

#### **Section 166.527. Petition for ex parte order; issuance and service of order; request for hearing.**

(1) A law enforcement officer or a family or household member of a person may file a petition requesting that the court issue an extreme risk protection order enjoining the person from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.

**(2)** An extreme risk protection order petition shall be heard by the court and issued or denied on the same day the petition is submitted to the court or on the judicial business day immediately following the day the petition is filed.

**(3)** The petition for an extreme risk protection order must be supported by a written affidavit signed by the petitioner under oath, or an oral statement taken under oath by the petitioner or any other witness the petitioner may produce.

**(4)** In determining whether to issue an extreme risk protection order, the court shall consider the following:

- (a)** A history of suicide threats or attempts or acts of violence by the respondent directed against another person;
- (b)** A history of use, attempted use or threatened use of physical force by the respondent against another person;
- (c)** A previous conviction for:
  - (A)** A misdemeanor involving violence as defined in ORS 166.470;
  - (B)** A stalking offense under ORS 163.732 or 163.750, or a similar offense in another jurisdiction;
  - (C)** An offense constituting domestic violence as defined in ORS 135.230;
  - (D)** Driving under the influence of intoxicants under ORS 813.010 or 813.011; or
  - (E)** An offense involving cruelty or abuse of animals;
- (d)** Evidence of recent unlawful use of controlled substances;
- (e)** Previous unlawful and reckless use, display or brandishing of a deadly weapon by the respondent;
- (f)** A previous violation by the respondent of a court order issued pursuant to ORS 107.716 or 107.718;
- (g)** Evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon; and
- (h)** Any additional information the court finds to be reliable, including a statement by the respondent.

**(5)**

- (a)** The petitioner has the burden of proof at the ex parte hearing.
- (b)** The petitioner may appear in person or by electronic video transmission.
- (c)** The court may continue a hearing under this section upon a showing of good cause.

**(6)**

**(a)** The court shall issue an extreme risk protection order if the court finds by clear and convincing evidence, based on the petition and supporting documentation and after considering a statement by the respondent, if provided, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person. The court may not include in the findings any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

**(b)** Upon making the findings described in paragraph (a) of this subsection, the court shall issue an extreme risk protection order prohibiting the respondent from having in the respondent's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.

**(7)** An extreme risk protection order issued under this section must include:

- (a)** A statement of the evidence and the court's findings supporting issuance of the order;
- (b)** The date and time the order was issued;
- (c)** A description of the manner in which the respondent may request a hearing described in subsection (9) of this section;
- (d)** The address of the court to which a request for a hearing must be sent;
- (e)** A description of the requirements for surrender of deadly weapons in the respondent's possession under section 6 of this 2017 Act; and
- (f)** A statement in substantially the following form:

To the subject of this protection order: An extreme risk protection order has been issued by the court and is now in effect. You are required to surrender all deadly weapons in your custody, control or possession. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, deadly weapons while this order is in effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly

weapons. You must, within 24 hours, surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may request a hearing to contest this order. If you do not request a hearing, the extreme risk protection order against you will be in effect for one year unless terminated by the court. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

**(8)**

**(a)** The respondent shall be personally served with both a copy of the extreme risk protection order and a hearing request form described in subsection (9) of this section.

**(b)** Whenever an extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

**(c)** If the person serving the order cannot complete service within 10 days, the person shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the person shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

**(d)** Upon receipt of a copy of the order and notice of completion of service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System, and shall request that the information be entered into the databases of the National Crime Information Center, upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

**(9)**

**(a)** Within 30 days after an extreme risk protection order is served on the respondent under this section, the respondent may request a court hearing using a form prescribed by the State Court Administrator.

**(b)** If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner and the respondent of the date and time of the hearing and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner and the respondent shall give to the clerk of the court information sufficient to allow such notification.

**(c)** The hearing shall occur within 21 days of the date of the respondent's request for a hearing.

**(10)** If the respondent fails to request a hearing within 30 days after an extreme risk protection order is served, the protection order is confirmed by operation of law and is effective for a period of one year from the date the original order was issued or until the order is terminated, whichever is sooner.

**(11)** A filing fee, service fee or hearing fee may not be charged for proceedings under this section or section 3 or 4 of this 2017 Act.

**(12)** If the court declines to issue an extreme risk protection order under this section, the court shall state with particularity the reasons for the denial on the record.

#### **Section 166.530. Hearing on order; continuation or termination of order.**

**(1)** At a hearing on an extreme risk protection order requested by the respondent under section 2 (9) of this 2017 Act, the court may:

**(a)** Examine under oath the petitioner, the respondent and any witness either party may produce, including a mental health professional selected by the respondent, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

**(b)** Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

**(2)**

**(a)** The Oregon Evidence Code shall apply in a hearing under this section.

(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

(3)

(a) At the hearing, the court shall determine:

(A) Whether to terminate the extreme risk protection order or continue the order for a duration of one year; and

(B) Whether any deadly weapons surrendered to a law enforcement agency pursuant to section 6 of this 2017 Act shall be returned to the respondent or retained by the law enforcement agency.

(b) The petitioner has the burden of proving, by clear and convincing evidence, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(c) If the court finds that the petitioner has met the burden of proof, the court shall:

(A) Order that the extreme risk protection order continue for the duration of one year from the date the original order was issued.

(B) Order that any deadly weapons surrendered to a law enforcement agency pursuant to section 6 of this 2017 Act remain in the custody of the law enforcement agency while the order is in effect.

(d) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(4) An extreme risk protection order continued under this section must include:

(a) A statement of the evidence and the court's findings supporting issuance of the order;

(b) The date and time the order was issued;

(c) The date and time of the expiration of the order;

(d) A description of the requirements for surrender of deadly weapons in the respondent's possession under section 6 of this 2017 Act; and

(e) A statement in substantially the following form:

To the subject of this protection order: This order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

(5) When the court continues an extreme risk protection order under this section, the court shall inform the respondent that the respondent is entitled to request termination of the order in the manner described in section 4 of this 2017 Act. The court shall provide the respondent with a form with which to request a termination hearing.

(6) The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

(7) If the court terminates an extreme risk protection order after a hearing under this section:

(a) The court shall state with particularity the reasons for the termination on the record.

(b) The clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice.

### **Section 166.533. Hearing to terminate order.**

(1) The petitioner or the respondent of an extreme risk protection order issued or continued under section 2 or 3 of this 2017 Act may each submit a written request once during the 12-month effective period of the order, and once during any 12-month effective period of an order renewed under section 5 of this 2017 Act, for a hearing to terminate the order. A hearing under this section is in addition to any hearing requested under section 2 of this 2017 Act.

(2) Upon receipt of a request described in subsection (1) of this section, the court shall schedule a termination hearing and provide notice of the hearing to both parties at least five days before the hearing.

**(3)**

**(a)** The person filing the termination request has the burden of proving, by clear and convincing evidence, that the respondent no longer presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

**(b)** The Oregon Evidence Code shall apply in a hearing under this section.

**(c)** The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

**(4)**

**(a)** If the court finds that the petitioner has met the burden of proof as described in subsection (3) of this section, the court shall terminate the extreme risk protection order.

**(b)** The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

**(5)** When an extreme risk protection order is terminated by order of the court, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice.

#### **Section 166.535. Renewal of order.**

**(1)** A law enforcement officer or a family or household member of a respondent, including but not limited to the law enforcement officer or family or household member who petitioned the court for the original extreme risk protection order issued under section 2 of this 2017 Act, may request a renewal of the order within 90 days before the expiration date of the order by filing a written request with the court.

**(2)** Upon receipt of the request for renewal described in subsection (1) of this section, the court shall schedule a hearing and provide notice of the hearing to both parties at least 14 days before the hearing.

**(3)** At a hearing to determine whether to renew an extreme risk protection order under this section, the court may:

**(a)** Examine under oath the petitioner, the respondent and any witness either party may produce or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

**(b)** Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

**(4)** The person requesting the renewal of the extreme risk protection order has the burden of proving, by clear and convincing evidence, that the respondent continues to present a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

**(5)**

**(a)** The Oregon Evidence Code shall apply in a hearing under this section.

**(b)** The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the original extreme risk protection order shall remain in effect until the next hearing date.

**(c)** The petitioner may appear in person or by electronic video transmission.

**(6)**

**(a)** If the court finds that the petitioner has met the burden of proof, the court may renew the extreme risk protection order for a duration of up to one year.

**(b)** The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

**(7)** An extreme risk protection order renewed under this section must include:

**(a)** A statement of the evidence and the court's findings supporting issuance of the order;

**(b)** The date and time the order was issued;

**(c)** The date and time of the expiration of the order;

**(d)** A description of the requirements for surrender of deadly weapons in the respondent's possession under section 6 of this 2017 Act; and

**(e)** A statement in substantially the following form:

To the subject of this protection order: This renewed order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this renewed order every 12 months that this order is in effect, starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

**(8)** When the court renews an extreme risk protection order, the court shall inform the respondent that the respondent is entitled to request termination of the renewed order in the manner described in section 4 of this 2017 Act. The court shall provide the respondent with a form with which to request a termination hearing.

**(9)**

**(a)** Service of a renewed extreme risk protective order shall be made by personal delivery of a copy of the order to the respondent. The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

**(b)** Whenever a renewed extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

**(c)** If service of the order is not required under paragraph (a) of this subsection, a copy of the order must be delivered to the sheriff by the court.

**(d)** Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and request that the order be entered into the databases of the National Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

**(10)** If the court declines to renew an extreme risk protection order, the court shall state with particularity the reasons for the denial on the record.

**(11)** A renewed extreme risk protection order may be further renewed as described in this section.

### **Section 166.537. Surrender of deadly weapons pursuant to order.**

**(1)** Upon issuance of an extreme risk protection order under section 2 of this 2017 Act, the court shall further order that the respondent:

**(a)** Within 24 hours surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and

**(b)** Within 24 hours surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.

**(2)** Upon continuance of an extreme risk protection order after a hearing under section 3 of this 2017 Act, or renewal of an extreme risk protection order under section 5 of this 2017 Act, the court shall further order that the respondent:

**(a)** Immediately surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and

**(b)** Immediately surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.

**(3)**

**(a)** A law enforcement officer serving an extreme risk protection order issued under section 2 of this 2017 Act shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody,

control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The law enforcement officer shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered by the respondent. If the respondent indicates an intention to surrender the deadly weapons to a gun dealer or a third party, the law enforcement officer shall request that the respondent identify the gun dealer or third party.

(b) A law enforcement officer serving an extreme risk protection order continued after a hearing under section 3 of this 2017 Act, or renewed under section 5 of this 2017 Act, shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The officer may conduct any search permitted by law for deadly weapons in the custody, control or possession of the respondent and shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.

(4) At the time of the surrender of any deadly weapons or concealed handgun licenses under subsection (3) of this section, the law enforcement officer taking possession shall issue a receipt identifying all surrendered items and provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that the law enforcement agency employing the law enforcement officer retains a copy of the receipt.

(5) If a third party claims lawful ownership or right of possession of a deadly weapon surrendered pursuant to this section, the law enforcement agency may return the deadly weapon to the third party if the third party provides proof of lawful ownership or right of possession of the deadly weapon, in a sworn affidavit, affirms that:

(a) The third party may lawfully possess the deadly weapon;

(b) The third party did not consent to the prior possession of the deadly weapon by the respondent; and

(c) The third party will prevent the respondent from accessing or possessing the deadly weapon in the future.

#### **Section 166.540. Return of surrendered deadly weapons.**

(1) If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any deadly weapon or concealed handgun license that has been surrendered pursuant to the order shall return the surrendered items as requested by the respondent of the order only after:

(a) Confirming through a criminal background check, if the deadly weapon is a firearm, that the respondent is legally eligible to own or possess firearms under state and federal law; and

(b) Confirming that the extreme risk protection order is no longer in effect.

(2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a law enforcement agency pursuant to section 6 of this 2017 Act who does not wish to have the firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer as defined in ORS 166.412, provided that the firearm is lawful to own or possess and the person has a legal right to transfer title of the firearm.

(3) A deadly weapon surrendered by a person pursuant to section 6 of this 2017 Act that remains unclaimed by the owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of deadly weapons in the agency's custody.

#### **Section 166.543. Criminal penalties.**

(1) A person commits a Class A misdemeanor if:

(a) The person knowingly possesses a deadly weapon; and

(b) The person is prohibited from possessing deadly weapons pursuant to an extreme risk protection order:

(A) Issued after notice and a hearing under section 3 of this 2017 Act;

(B) Confirmed by operation of law after the person failed to request a hearing under section 2 (9) of this 2017 Act; or

(C) Renewed under section 5 of this 2017 Act.

(2) A person convicted under subsection (1) of this section shall be prohibited from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms for a five-year period beginning when the extreme risk protection order expires or is terminated, or the judgment of conviction is entered, whichever occurs later.

(3) A person who files a petition for any extreme risk protection order under sections 1 to 8 of this 2017 Act with the intent to harass the respondent, or knowing that the information in the petition is false, is guilty of a Class A misdemeanor.

## Possession of Body Armor

### Section 166.641. Definitions for ORS 166.641 to 166.643.

As used in this section and ORS 166.642 and 166.643:

- (1) “**Body armor**” means any clothing or equipment designed in whole or in part to minimize the risk of injury from a deadly weapon.
- (2) “**Deadly weapon**” has the meaning given that term in ORS 161.015.
- (3) “**Misdemeanor involving violence**” has the meaning given that term in ORS 166.470.

### Section 166.642. Felon in possession of body armor.

- (1) A person commits the crime of felon in possession of body armor if the person:
  - (a) Has been convicted of a felony or misdemeanor involving violence under the law of any state or the United States; and
  - (b) Knowingly is in possession or control of body armor.
- (2) Felon in possession of body armor is a Class C felony.
- (3) For purposes of subsection (1) of this section, a person who has been found to be within the jurisdiction of a juvenile court for having committed an act that would constitute a felony or misdemeanor involving violence has been convicted of a felony or misdemeanor involving violence.
- (4) Subsection (1) of this section does not apply to:
  - (a) A person who is wearing body armor provided by a peace officer for the person’s safety or protection while the person is being transported or accompanied by a peace officer; or
  - (b) A person who has been convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the law of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, and who has been discharged from imprisonment, parole or probation for the offense for a period of 15 years prior to the date of the alleged violation of subsection (1) of this section.
- (5) It is an affirmative defense to a charge of violating subsection (1) of this section that a protective order or restraining order has been entered to the benefit of the person. The affirmative defense created by this subsection is not available if the person possesses the body armor while committing or attempting to commit a crime.

### Section 166.643. Unlawful possession of body armor.

- (1) A person commits the crime of unlawful possession of body armor if the person, while committing or attempting to commit a felony or misdemeanor involving violence, knowingly:
  - (a) Wears body armor; and
  - (b) Possesses a deadly weapon.
- (2) Unlawful possession of body armor is a Class B felony.

## Title 35 – Mental Health and Developmental Disabilities; Alcohol and Drug Treatment Chapter 426 – Persons with Mental Illness; Sexually Dangerous Persons Persons with Mental Illness Commitment Procedure

### Section 426.130. Court determination of mental illness; discharge; release for voluntary treatment; conditional release; commitment; assisted outpatient treatment; prohibition relating to firearms; period of commitment.

- (1) After hearing all of the evidence, and reviewing the findings of the examiners, the court shall determine whether the person has a mental illness and is in need of treatment. If, in the opinion of the court, the person:
  - (a) Is a person with mental illness based upon clear and convincing evidence, the court:
    - (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community at large as a result of the person’s mental or psychological state as demonstrated by past behavior or participation in incidents involving unlawful violence or threats of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When a court makes an order under this subparagraph, the court shall cause a copy of the order to be delivered to the sheriff of the county who will enter the information into the Law Enforcement Data System.



**(4)** If the court finds that the person is a person with mental illness and either orders commitment under subsection (1)(a)(B) or (C) of this section or enters an order under subsection (1)(a)(D) of this section, the court shall notify the person that the person is prohibited from purchasing or possessing a firearm under state and federal law unless the person obtains relief from the prohibition from the Psychiatric Security Review Board under ORS 166.273 or under federal law.

**Section 426.133. Assisted outpatient treatment.**

**(1)** As used in ORS 426.005 to 426.390, “assisted outpatient treatment” may not be construed to be a commitment under ORS 426.130 and does not include taking a person into custody or the forced medication of a person.

**(2)** A court may issue an order requiring a person to participate in assisted outpatient treatment if the court finds that the person:

**(a)**

**(A)** Is 18 years of age or older;

**(B)** Has a mental disorder;

**(C)** Will not obtain treatment in the community voluntarily; and

**(D)** Is unable to make an informed decision to seek or to comply with voluntary treatment; and

**(b)** As a result of being a person described in paragraph (a) of this subsection:

**(A)** Is incapable of surviving safely in the community without treatment; and

**(B)** Requires treatment to prevent a deterioration in the person’s condition that will predictably result in the person becoming a person with mental illness.

**(5)** As part of the order under subsection (2) of this section, the court may prohibit the person from purchasing or possessing a firearm during the period of assisted outpatient treatment if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community at large as a result of the person’s mental or psychological state, as demonstrated by past behavior or participation in incidents involving unlawful violence or threats of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When a court adds a firearm prohibition to an order under subsection (2) of this section, the court shall cause a copy of the order to be delivered to the sheriff of the county, who shall enter the information into the Law Enforcement Data System.

**Title 16 – Crimes and Punishments**  
**Chapter 166 – Offenses Against Public Order; Firearms and Other Weapons; Racketeering**  
**Authority to Regulate Firearms**

**Section 166.170. State preemption.**

(1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.

(2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void.

**Section 166.175. Authority of city to regulate purchase of used firearms.**

(1) Notwithstanding any other provision of law, a city may continue to regulate the purchase of used firearms by pawnshops and secondhand stores.

(2) As used in this section, "**secondhand store**" means a store or business whose primary source of revenue is the sale of used merchandise.

**Ashland Land Use Ordinance**  
Current through Ordinance 3168, passed December 18, 2018.

**Part 18.2 – Zoning Regulations**  
**Chapter 18.2.3 – Special Use Standards**

**Section 18.2.3.150. Home Occupation**

C. Prohibited Uses. The following uses are prohibited as home occupations.

3. Any of the following uses, and uses with similar objectionable impacts because of automobile traffic, noise, glare, odor, dust, smoke, or vibration.

- b. Ammunition or firearm sales.
- c. Ammunition reloading business.

**Bend Code of Ordinances**  
Current through Ordinance NS-2350, passed September 4, 2019.

**Title 7 – Businesses**  
**Chapter 7.25 – Secondhand Dealers and Pawn Brokers**

**Section 7.25.005. Definitions.**

The following definitions apply in this chapter:

**B. Dealers** mean persons who are engaged in the business of selling, purchasing, trading, bartering or exchanging secondhand goods. "Dealers" includes pawn brokers.

**C. Secondhand goods** means all personal property which has been used or possessed previously by another and includes previously owned precious metals such as gold, silver and platinum, jewelry, coins, firearms, hand and power tools, and any article with a manufacturer's serial number.

**Section 7.25.010. License Required.**

Dealers must obtain a City secondhand goods dealer license. Agents and employees of a dealer who engage in the purchase of secondhand goods must also obtain a license. No person may act as a dealer without a secondhand goods dealer license.

**Section 7.25.015. Exemptions.**

This chapter does not apply to:

- C. The resale of goods acquired as a trade-in;
- D. Sales at flea markets, trade shows or similar organized sales events that operate three or fewer times annually and not to exceed five days per event;

A person claiming an exemption has the burden of proof to establish the exemption.

## Canby Code of Ordinances

Current through Ordinance No. 1479, passed May 15, 2018.

### Title 5 – Business Licenses and Regulations Chapter 5.06 – Secondhand Dealers

#### Section 5.06.020. Definitions.

As used in this chapter, unless the context requires otherwise:

##### E. Dealer or Secondhand Dealer:

1. Means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:

a. Acquires regulated property on behalf of a business, regardless of where the acquisition occurs, for the purpose of reselling the property; or

b. Offers for sale regulated property in the City of Canby.

2. Notwithstanding division 1. above, Dealer or Secondhand Dealer does not include any of the following:

a. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)(3) organizations;

b. An individual or business whose only transactions involving regulated property in the City of Canby consist of the acquisition of regulated property for personal use, or the sale of regulated property that was originally acquired by the seller for personal use; or

c. A person whose only business transactions with regulated property in the City of Canby consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 calendar days in any calendar year.

M. Regulated Property means any property of a type that has been determined by the Chief of Police to be property that is frequently the subject of theft, including but not limited to the following property, unless excluded by division 3. below, and may be revised as necessary by the Chief of Police after giving appropriate advance notification.

o. Firearms including, but not limited to, rifles, handguns, shotguns, pellet guns or BB guns ;

#### Section 5.06.030. Permit Required.

A. No person shall act as a secondhand dealer in the City of Canby without a valid secondhand dealer's permit issued by the Chief of Police.

B. Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City of Canby will be presumed to be operating as a secondhand dealer subject to the terms of this chapter.

### Title 9 – Public Peace, Morals and Welfare Chapter 9.08 – Weapons

#### Section 9.08.030. Firearm purchaser; background inspection fee.

A. Whenever the Police Department is requested by a firearm dealer to conduct a background check on a prospective firearm purchaser, the firearm dealer shall submit a processing fee for each background check requested. The background check fee shall be paid by the firearm dealer and shall be used to defray Police Department expenses incurred in conducting the check. This fee shall be set forth by resolution.

B. Failure by the firearm dealer to submit the proper fee with each background inspection request is an unclassified misdemeanor punishable by a fine of not more than \$100 per violation.

### Title 16 – Planning and Zoning Division III – Zoning Chapter 16.35 – Canby Industrial Area Overlay (I-O) Zone

#### Section 16.35.045. Prohibited uses.

The following uses are prohibited in the I-O zone:

I. Fireworks manufacturing or the manufacturing of ammunition or explosives;

**Cascade Locks Published Ordinances**

Current through Ordinance 450, passed April 8, 2019. (Supplement Number 4)

**Title IX – General Regulations**

**Chapter 91 – Fire Prevention**

**Explosives, Blasting Agents, Ammunition Not Permitted**

**Section 91.082. Where storage of ammunition not permitted.**

No permit for the storage and sale of ammunition in excess of 10,000 small arms cartridges shall be issued for any premises as follows:

(A) Buildings which are occupied in any part as hotels, apartments, dwellings, schools, places of public amusement or assembly, excepting armories of the state and United States military; and

(B) Buildings or places where the storage of ammunition together with materials being manufactured, stored or kept for sale would, in the opinion of the Fire Marshal, result in an unsafe condition.

**Cornelius Code of Ordinances**

Current through Ordinance 2019-09, passed July 15, 2019.

**Title 5 – Business**

**Chapter 5.45 – Antique/Secondhand/Precious Metal and Gem Dealer**

**Section 5.45.020. Definitions**

As used in this chapter unless the context requires otherwise:

(J) “Purchase” means to transfer an article from a person, not representing a bona fide business, to any dealer regulated by this chapter, for any valuable consideration. Purchase does not include consignment of property for sale.

(K) “Secondhand articles” means the following used personal property:

(7) guns and equipment;

(L) “Secondhand dealer” means any person engaged in, conducting, managing or carrying on the business of purchasing secondhand articles from any person not representing a bona fide business, who appears with such article at the dealer’s place of business.

**Section 5.45.030. License.**

(A) It shall be unlawful to operate as an antique, secondhand or precious metal and gem dealer in the city of Cornelius without first obtaining a license therefor as hereinafter provided.

**Dallas Code of Ordinances**

Current through March 2019.

**Chapter 5 – Public Protection  
Offenses**

**Offenses Relating to Weapons**

**Section 5.100. Unlawful Possession of Weapons.**

(1) Except as otherwise provided in this section, a person commits the crime of unlawful possession of a weapon if the person knowingly:

(c) Possesses or has in possession any shot gun with a barrel length less than 18 inches or an overall length of less than 26 inches or a rifle with a barrel length of less than 16 inches or an overall length of less than 26 inches.

(2) Subsection (1) of this section shall not apply to any peace officer as defined in ORS 133.005, whether active or honorably retired, or to any corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

(5)

(b) Violation of subsection (1)(b) or (1)(c) of this section is a Class A misdemeanor.

## **Elgin Code of Ordinances**

Current through Ordinance 180, enacted February 9, 2016. (Supplement Number 4)

### **Title 17 – Zoning**

#### **17.34 – Industrial Craftsman Zone (I-C)**

##### **Section 17.34.030. Uses permitted by administrative review.**

**F.** Gun-smithing and the production of custom firearm items and accessories.

These uses require an administrative review because they require a finding that the proposed use is consistent with the purpose of the industrial craftsman zone. Prior to issuing a use permit for a use requiring an administrative review, a notice and an opportunity for a public hearing will be provided to property owners within one hundred (100) feet of the subject property. The city administrator will act as the reviewing authority for applications which receive no comments from area property owners and the administrator determines that the use is compatible with the purposes of the industrial craftsman zone.

The city administrator will forward to the planning commission for a public hearing, any application that generates a request for a public hearing, any application which appears to involve unique circumstances, or any application for which substantive questions are raised by area property owners.

## **Harrisburg Code of Ordinances**

Current through Ordinance 970, passed July 22, 2019.

### **Title 5 – Business Licenses, Taxes and Regulations**

#### **Chapter 5.20 – Secondhand Dealer License**

##### **Section 5.20.020. Definitions.**

“**Dealer**” means a person who is engaged in the business of selling, purchasing, trading, bartering or exchanging secondhand goods. A “dealer” includes pawnbrokers.

“**Secondhand goods**” means all personal property which has been used or possessed previously by another and includes previously owned ... firearms, hand and power tools, and any article with a manufacturer’s serial number.

##### **Section 5.20.030. License requirement, application, issuance, inspection, and revocation.**

In addition to the requirements in Chapter 5.05 HMC, an application for a secondhand dealer license shall comply with all of the criteria in HMC 5.20.040.

## **Hines Code of Ordinances**

Current through Ordinance 322, passed January 8, 2019. (Supplement Number 12)

### **Title 5 – Business Taxes, Licenses and Regulations**

#### **Chapter 5.04 – Business and Occupation Licenses**

##### **Section 5.04.110. Specific requirements.**

**A.** Businesses dealing in the purchase or trade of secondhand goods, such as, but not limited to .., guns or electronic equipment, shall keep a record of the sales for inspection by the chief of police. Such a record shall include the name of the seller, name of the buyer, date of sale, description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable the return of stolen goods.

## **Title 9 – Public Peace, Morals and Welfare**

### **Chapter 9.12 – Weapons and Fireworks**

##### **Section 9.12.040. Unlawful possession of firearms.**

Except as otherwise provided in this section, ORS Sections 166.260, 166.270, 166.280, 166.290 or 166.410 through 166.470 as now constituted and hereafter amended, no person shall knowingly:

**A.** Possess or have in possession any machine gun not registered as required under federal law;

**Independence Code of Ordinances**

Current through Ordinance 1537, enacted November 18, 2014. (Supplement Number 11)

**Chapter 18 – Miscellaneous Offenses**

**Article VIII – Weapons and Fireworks**

**Section 18-231. Possession of firearms.**

(a) As used in this chapter, "**firearm**" means a pistol, revolver, gun, rifle, including a miniature weapon, spring gun, air gun, BB gun or other weapon which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air, jet or rocket propulsion.

(d) It is unlawful for any person to possess or carry a firearm, whether loaded or unloaded, or any other instrument used as a dangerous weapon, while in or on a public building within the city.

(e) The prohibition of subsection (d) does not apply to:

(7) Possession of a firearm on school property if the firearm:

- a. Is possessed by a person who is not otherwise prohibited from possessing the firearm; and
- b. Is unloaded and locked in a motor vehicle.

(f) For purposes of this section, "**public building**" means the following buildings as well as the grounds adjacent to each building:

(4) A public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents, or any part thereof; the grounds adjacent to the institution; and any site or premises that at the time is being used exclusively for a student program or activity that is sponsored or sanctioned by the institution, a public school district, an education service district or a voluntary organization and that is posted as such.

**Monmouth Code of Ordinances**

Current through Ordinance 1386, passed August 20, 2019.

**Title 9 – Public Peace, Morals and Welfare**

**Chapter 9.10 – Offenses**

**Section 9.10.420. Unlawful possession of firearms.**

(1) Except as otherwise provided in this section, ORS 166.260, 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(c) Possesses a firearm; and

- (i) Is under 18 years of age;
- (ii) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;
- (iii) Was committed to the Mental Health and Development Disability Services Division under ORS 426.130; or
- (iv) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.

(2) This section does not prohibit:

(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

- (i) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or
- (ii) Temporarily for hunting, target practice or any other lawful purpose; or

(4) Unlawful possession of a firearm is a Class A misdemeanor.

**Milwaukie Code of Ordinances**

Current through Ordinance 2170 and the May 2019 code supplement.

**Title 11 – Miscellaneous Permits**

**Chapter 11.04 – Temporary Events, Permits, and Regulations**

**Section 11.04.060. Application process and approval criteria.**

C. The following criteria must be met before a temporary event permit is issued:

- 9. Hazardous Activities

b. Gun shows at which gun sales are to occur shall have all firearms, including antique firearms made inoperable through the use of locks, "zip ties," or other devices to prevent the firearm from being loaded or discharged at the gun show. Sales by licensed firearms dealers may be permitted if permitted by the applicant. Sales by persons who have not been issued a valid federal firearms license shall not be permitted on City property.

**Title 19 – Zoning**  
**Chapter 19.300 – Base Zones**

**Section 19.31. North Milwaukie Innovation Area**

**19.312.4 Standards for Limited Uses**

The following standards apply to those uses listed as limited (L) in Table 19.312.2.

**B. Other Uses**

1. In the MUTSA, the following uses, or similar, are not permitted: ... manufacturing or production of: ... ammunition.

**Newberg Code of Ordinances**  
Current through Ordinance 2844, passed May 20, 2019.

**Title 5 – Business Licenses and Regulations**  
**Chapter 5.40 – Secondhand Dealers and Pawn Shops**

**Section 5.40.030. Definitions.**

For the purpose of this chapter of the city code, the following mean:

**"Dealer"** or **"secondhand dealer"** means a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, pawnbroker licensed under the Oregon Pawnbroker's Act, ORS 726.020, 726.990 or any other form of organization for doing business and that either:

1. Acquires regulated property at or from business locations within the City of Newberg, or on behalf of such a business regardless of where the acquisition occurs; or
2. Offers for sale regulated property.

"Dealer" does not include:

1. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)(3) organizations; or
2. A person whose only business transactions with regulated property in the City of Newberg consist of the sale of personal property acquired for household or other personal use; or
3. A person whose only business transactions with regulated property in the City of Newberg consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

**"Occasional secondhand dealer"** means dealers that offer for sale not more than 50 items of regulated property in any one-year period. The term "dealer" in this chapter and all regulations herein refers to secondhand dealers, occasional secondhand dealers and pawnbrokers unless specifically stated otherwise.

**"Regular secondhand dealer"** means a person who purchases regulated property while carrying on a business and who does not qualify as an occasional secondhand dealer under this chapter.

**"Regulated property"** means:

1. Used Items.
  - I. Firearms including but not limited to: rifles, shotguns, handguns, revolvers, pellet guns, or BB guns.

2. New Items.

a. New items purchased from a licensed business are exempt from regulation under this section if the dealer has a bill of lading, receipt, invoice or the equivalent for the new items that specifies the seller's business name, physical and mailing address, date of transaction and a description of the purchased items. The bill of lading, receipt, invoice or the equivalent must be held by the dealer for one year or as long as the property is in the dealer's possession, whichever is longer. Upon reasonable belief that a specific licensed business is dealing in stolen property or is acquiring property in violation of this or any jurisdiction's secondhand dealer requirements, the chief of police may deem that new items purchased from that specific licensed business are regulated property.

b. Items acquired from a manufacturer, manufacturer's representative or distributor that are discontinued or have been used for display or demonstration but not previously sold are new and exempt from regulation under this section if the dealer has a bill of lading, receipt, invoice or the equivalent that includes the information specified in subsection (2)(a) of this definition. The dealer must hold the bill of lading, receipt, invoice or the equivalent for one year or as long as the property is in the dealer's possession.

**Section 5.40.050. Permit required.**

A. No secondhand dealer shall carry on a secondhand business without a secondhand dealer permit. A secondhand dealer permit shall be required in addition to a business license required by Chapter 5.05 NMC, or any other city license or permit.

**Portland Code of Ordinances**  
Current through September 30, 2019.

**Title 14 – Public Order and Police**  
**Chapter 14A.60 – Weapons and Explosives**

**Section 14A.60.060. Failure to report theft.**

- A. Any person who possesses, owns or controls a firearm in the City of Portland shall report the theft or misplacement of the firearm to the Chief of Police or designee, providing a description of the firearm including serial number, within 48 hours of knowing, or having reason to know, the firearm is stolen or cannot be located through reasonable effort.
- B. A person who possesses, owns or controls a firearm in the City of Portland and fails to provide the serial number of the firearm when reporting the firearm is stolen or cannot be located is subject to a \$200 administrative fee.
- C. Violation of Subsection 14A.60.060 A. is punishable by a fine of \$2,500.

**Ontario Code of Ordinances**  
Current through Ordinance 2747-2018, passed November 27, 2018. (Supplement Number 35)

**Title 6 – Police Regulations**  
**Chapter 1 – General Offenses**

**Section 6-1-21. Weapons; use, possession.**

(B) Use, Possession of Dangerous Weapon.

2. Except as otherwise provided by ORS 166.250, it shall be unlawful for any person to possess or have in his possession any machine gun, or carry concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person, without having a license to carry such firearm.
3. The provisions of this subsection shall not apply to police officers or other individuals or organizations defined or ORS 166.260. (1978 Code)
- A violation of this subsection shall be a Class A violation.

**Oregon City Code of Ordinances**  
Current through Ordinance 18-1005, passed May 2, 2018. (Supplement Number 37)

**Title 9 – Public Peace, Morals and Welfare**  
**Chapter 9.24 – Weapons**

**Section 9.24.010. Definitions.**

For the purposes of this chapter:

**"Firearm"** means a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder and which is readily capable of use as a weapon. "Firearm" shall include, but not be limited to pistol, revolver, gun, rifle, shotgun, or other ordnance, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed gas.

**Section 9.24.050. Sale to or possession of firearms by minors.**

It is unlawful for any person to give, furnish, loan or sell to any minor under eighteen years of age any firearm as defined in Section 9.24.010, and it is unlawful for any person to give, furnish, loan or sell any ammunition to any minor to be used or capable of being used in any firearm as defined in Section 9.24.010; and it is unlawful for any such minor to have such a firearm or ammunition in his or her possession; and it is unlawful for any parent or guardian of any minor to permit such



minor to have such a firearm or ammunition in his or her possession, except that minors twelve years of age or older are allowed to participate at facilities exempt under Sections 6.24.020(G)(2) and (G)(6).

**Salem Published Ordinances**

Current through Ordinance No. 20-18 and 21-18, adopted through November 26, 2018. (Supp. No. 4)

**Title X – Unified Development Code  
Chapter 523 – CG – General Commercial**

**Section 523.005. Uses.**

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the CG zone are set forth in Table 523-1.

Table 523-1. Uses		
Use	Status	Limitations & Qualifications
Wholesale Sales, Storage, and Distribution		
Heavy wholesaling	C	The following heavy wholesaling activities: ■ Firearms.

**Chapter 524 – CB – Central Business District**

**Section 524.005. Uses.**

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the CB zone are set forth in Table 524-1.

Table 524-1. Uses		
Use	Status	Limitations & Qualifications
Wholesale Sales, Storage, and Distribution		
Heavy wholesaling	C	The following heavy wholesaling activities, provided they are combined with retail sales in the same line of goods: ■ Firearms.

**Chapter 550 – EC – Employment Center**

**Section 550.010. Uses.**

(a) EC zone. The permitted (P), special (S), conditional (C), and prohibited (N) uses in the EC zone are set forth in Table 550-1.

Table 550.1. EC Zone Uses		
Use	Status	Limitations & Qualifications
Warehousing and distribution	N	The following warehousing and distribution activities: Storage of weapons and ammunition

**Chapter 551 –IC – Industrial Commercial**

**Section 551.005. Uses.**

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the IC zone are set forth in Table 551-1.

Table 551-1. Uses		
Use	Status	Limitations & Qualifications
Wholesale Sales, Storage, and Distribution		
Heavy wholesaling	C	The following heavy wholesaling activities: ■ Firearms wholesalers.

**Chapter 553 –IP – Industrial Park**

**Section 553.005. Uses.**

(a) The permitted (P), special (S), conditional (C), and prohibited (N) uses in the IP zone are set forth in Table 553-1.

Table 553-1. Uses		
Use	Status	Limitations & Qualifications
Wholesale Sales, Storage, and Distribution		
Heavy wholesaling	C	The following heavy wholesaling activities: ■ Firearms wholesalers.

**Chapter 556 – SCI – Second Street Craft Industrial Corridor Zone**

**Section 556.005 Uses.**

Table 556-1: Uses		
Use	Status	Limitations & Qualifications
Heavy manufacturing	N	The following heavy manufacturing activities are prohibited: Ordnance, small arms, and ammunition

**Chapter 608 – West Salem General Industrial Overlay Zone**

**Section 608.015. Uses.**

(c) Additional prohibited uses. In addition to the prohibited uses in the underlying zone, the uses set forth in Table 608-2 are additional prohibited (N) uses in the West Salem General Industrial Overlay Zone.

Table 608-2. Additional Prohibited Uses		
Use	Status	Limitations & Qualifications
Heavy manufacturing	N	Only the following heavy manufacturing activities are additional prohibited uses: Ordnance, small arms, and ammunition

**Shady Cove Code of Ordinances**

Current with legislation passed through April 5, 2018.

**Title XI – Business Regulations  
Chapter 115 – Second-Hand Dealers**

**Section 115.03. Definitions.**

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

**Merchandise.** The following: guns , jewelry, serialized and marked items, silverware or silver or silver-plated items, goldware, gold or gold-plated items, cameras or camera equipment, bicycles, coins, musical instruments, chain saws, tools and electronic equipment of any kind including, but not limited to, tape recorders, stereos and stereo components, computers, computer software and sporting goods.

**Second-Hand Dealer.**

(1) A person, on his or her account or as an agent of another, including employees, partnerships, associations and corporations, engaged in conducting, managing or carrying on the business of buying, selling or otherwise dealing in, second-hand specified merchandise, and all persons listed as owners of the second-hand business on the business license applications. Excluded from this definition are isolated sales not in the regular course of any business and occasional garage sales held at the same location on less than four days during any 30-day period.

(2) All Second-Hand Dealers shall be responsible for the acts of their employees, and any violation of this chapter by any employee shall be put to the employer and/or second-hand business, and the employer and/or second-hand business may suffer any of the penalties provided in this chapter, as the result of employee violations of this chapter.

**Section 115.04. Business License Required.**

**(A)**

(1) Second-hand dealers, as described above, shall be required to purchase annually a business license for operation of a second-hand business.

**Springfield Development Code**

Current through Ordinance 6394 and the March 2019 code supplement.

**Chapter 4 – Development Standards  
Section 4.7-100 – Specific Development Standards**

**Section 4.7-165. Home Occupations**

D. The following uses are prohibited as a home occupation:

8. Gun dealerships involving and storage of guns for sale or customers visiting the residence.

**Sweet Home Code of Ordinances**  
Current through Ordinance 1274, passed 2019. (Supplement 6)

**Title 5 – Business Licenses and Regulations**  
**Chapter 5.32 – Secondhand Dealers**

**Section 5.32.010. Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Secondhand Dealer.** Any person engaged in the business of buying, selling, trading or otherwise dealing in secondhand goods where any such transactions are initiated, conducted or concluded at the secondhand dealer's place of business, either as a separate venture or incidental to another business. The term Secondhand Dealer does not include the following:

1. A person solely engaged in the business of buying and selling used vehicles that are required to be registered by the Department of Transportation;
2. Any person who sells, on an incidental basis, secondhand merchandise taken in trade by that dealer for new merchandise;
3. Any person who deals exclusively with the buying and selling of used clothing, used furniture and/or used books;
4. A person conducting a "garage sale", "estate sale" or "yard sale", except as stated above;
5. A pawnbroker as defined in O.R.S. 726.010;
6. A person who buys for resale, secondhand goods solely as part of estate sales or auctions; provided, the person shall keep and maintain records or receipts sufficient to prove the secondhand goods were purchased from a legitimate estate sale or auction, including the date and specific location of the estate sale or auction and shall present the proof to a police officer upon request; and
7. A person who receives secondhand goods solely by donation for charitable purposes.

**Secondhand Goods.**

11. Firearms, including, but not limited to: rifles, shotguns, hand guns, revolvers, pellet guns or BB guns;

**Section 5.32.020. License – required.**

No person shall engage in any business as a secondhand dealer or assist in the conducting of any such business, without first obtaining a license as required by this chapter. Each license pursuant to this chapter shall be valid for one calendar year from the date of issue.