

Rules and Regulations For Second Hand Dealers

1. Purpose

- A. The primary intent of these rules and regulations is to establish a system which fairly and impartially regulates the sale of second hand articles for the stated purpose of:
 - i. identifying stolen property that may be received by such dealers;
 - ii. deterring and preventing the sale or barter of stolen goods; and
 - iii. aiding law enforcement officials in fulfilling their duty to apprehend and prosecute any person who facilitates the theft, possession and/or sale of stolen goods; and
 - iv. enabling the return of stolen property to the rightful owner.

2. Definitions

- A. AUCTION - Shall mean the sale or barter of personal property in which the sale price of the property offered is increased by competitive bids, regardless of the method, until the highest accepted bidder becomes the purchaser.
- B. BUYER - Shall mean any person, other than a properly licensed person, who purchases or otherwise obtains custody, whether temporarily or permanently, of personal property or articles that are used goods or junk, old metals, or second hand articles by means of collecting, purchasing as a sale or obtaining through a consignment, barter or exchange.
- C. CONSIGNMENT - Shall mean any person who has relinquished control or is intending to relinquish custody, whether temporarily or permanently, of personal property or articles that are used goods or junk, old metals, or second hand articles.
- D. SECOND HAND DEALER- Any persons who are collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles. In addition, the term "Second Hand Dealer" shall have the same meaning as the term "second hand collector", "junk dealer", "junk collector" or "keeper of a shop" for the purchase, sale or barter of junk, old metals, rags, bottles or second hand articles".
- E. SELLER - Shall mean any person who relinquished or is intending to relinquish ownership or custody, whether temporary or permanently, of personal property or articles that are used goods or junk, old metals, or second hand articles by means of offering for sale, consignment, barter or exchange.

3. Regulated Property

The following used property or articles:

- A. Any and all junk, old metals, rags, bottles or second hand articles;
- B. Precious metals, including, but not limited to, any metal valued for its character, rarity, beauty or quality, including gold, silver, copper, platinum or other metals, whether as a separate item or in combination with other items;
- C. Precious gems, including, but not limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semiprecious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry;
- D. Watches and jewelry containing precious metals or precious gems, including, but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wristwatches, or stopwatches;
- E. Sterling silver flatware, including, but not limited to, knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects;
- F. Any electronic audio, video or photographic and optical equipment, recorders in any form, computers, tablets or computer equipment in any form;
- G. Any power tools or equipment;
- H. Musical instruments;
- H. Sporting equipment;
- I. Cellular phones;
- J. Any electronic device, including, but not limited to, televisions, receivers, speakers, gaming devices, radios, audio players and recorders;
- 1. Collectibles, including, but not limited to, objects of art, furs, tools, figurines, memorabilia and antique objects.

4. License Applications -General

- A. Applications for new and renewal licenses shall be made in writing on forms provided by the Office of the Board of Selectmen. Each application shall set forth the name of the licensee, the nature of the business and the building or place in Mendon in which the business is to be carried on. Each license granted shall be issued on a location specific basis to permanent business locations and no license shall be granted to transient or temporary businesses.
- B. Under no circumstances shall a license issue for any establishment or premises that is not in compliance with zoning, building, or fire code and regulations. The granting of a

license shall not be evidence or proof that the licensee is in compliance with said codes or regulations.

- C. Completed license applications shall be submitted to the Town Administrator for processing and presentation to the Board of Selectmen. The Town Administrator may make recommendations to the Board of Selectmen whether a license should be approved, modified or denied; however, the final decision shall be at the sole discretion of the Board of Selectman, hereinafter sometimes referred to as the "Licensing Authority."
- D. Upon approval, a license shall be issued and shall continue in effect, unless sooner revoked by the Board of Selectmen, until April 30th next following.
- E. No license may be transferred to another person, entity or business location without the approval of the Board of Selectmen.
- F. The license shall be clearly and prominently displayed for viewing by the public within the place of business, if required.
- G. Any alterations to the building or signs will require the applicant to secure the proper permits and/or authorization.

5. Issuance, Renewal And Revocation Of Second Hand Licenses.

- A . The Licensing Authority for the Town of Mendon may, after notice and hearing, deny or modify an original or renewal application for a second hand dealer license or revoke an issued license if it believes any of the following conditions exist after said hearing:
 - i. the applicant, or any person who in whole or in part would own, manage or operate the proposed second hand dealer business, has owned, managed or operated any substantially similar business within the five years prior to the application date and has had a second hand dealer license revoked or the business closed for a reason that would be grounds for a denial or revocation pursuant this policy;
 - ii, the second hand dealer business has been found to constitute a public nuisance;
 - iii. it has been determined that the applicant, or any person who proposes, in whole or in part, to own, manage or operate the second hand dealer business, has been convicted of a felony or any crime involving a false or fraudulent statement within fifteen (15) years prior to the application date. A "Continued Without A Finding" or "CWOFF" shall be viewed as an admission to sufficient facts to warrant a guilty finding and may be utilized by the Board of Selectmen in determining whether the license shall issue;

- iv. if it is determined that the second hand dealer business, the applicant, or any person who proposes, in whole or in part, to own, manage or operate the second hand dealer business, has been convicted of any law that is contrary to the operation of a second hand dealer business, including, but not limited to, receiving stolen property, any form of breaking and entering, larceny from a person or any other form of larceny, or any form of aggravated assault. A "Continued Without A Finding" or "CWOFF" shall be viewed as an admission to sufficient facts to warrant a guilty finding and may be utilized by the Board of Selectmen in determining whether the license shall issue;
- v. the applicant, or any person who, in whole or in part, would own, manage or operate the proposed second hand dealer business has:
 - (a) made a false statement in the application; or
 - (b) omitted information requested to be disclosed in the application; or
 - (c) completed the application with reckless disregard for the truth or accuracy of the statements made therein; or
 - (d) refused to present to a police officer information concerned with how he conducts his business, the opportunity to inspect all personal property or articles purchased or held as second hand, or the opportunity to examine all books and inventories upon demand; or
 - (e) has more than three violations of these regulations, any state or federal law, or any combination thereof, within a five (5) year period prior to the application date; or
 - (f) such other grounds as the Licensing Authority determines to be in the public interest or violative of the conditions of the license or any law or regulation.

6. Records Of Purchases -Transaction Records

- A. A second hand dealer, regardless of the manner of acquisition of any articles, goods or items subject to licensing hereunder, shall prepare a transaction record upon or in a form approved by the Chief of Police. Said transaction record shall have, at a minimum:
 - i. the full name, current address, date of birth and identification number from an acceptable form of identification, as detailed in paragraph 8 of these rules and regulations. A digital photograph of the presented identification shall be recorded;
 - ii. the date and time of transaction;

- iii. a full, detailed and accurate description (including color, make, model, type, serial number, distinguishing mark(s) or engraving(s) or other identifiable characteristics) and a digital photograph of each article;
 - iv. the amount paid for each article; and
 - v. the name of the employee or person receiving the item.
- B. Each seller shall sign his or her true name on the transaction record verifying he or she is the property owner and has the lawful right to sell, barter, consign or exchange said personal property or article.
- C. A second hand dealer shall also record each transaction, with the information required, in a bound book with consecutively numbered pages or on a computer spreadsheet. All entries shall be legible, written in English, and assigned an independent inventory number. The corresponding number shall be attached to the item. No entry in the book shall be erased, obliterated, altered or defaced.
- D. Any articles, goods or items acquired pursuant to this license, including, but not limited to, jewelry; diamonds; precious or semi-precious stones or gems; precious or semiprecious metals; watches; and figurines, shall be digitally photographed in reasonable detail depicting an accurate and clear representation of the articles, goods or items, so that the photograph can be used for purposes of identification.
- E. A second hand dealer shall maintain the original transaction records, books and photographs for a minimum of three (3) years.

7. Inspection Of The Premises, Transaction Records Or Books, And Second Hand Personal Property Or Articles

- A. The transaction records and books, and the articles, goods or items recorded therein, shall be open and made available for immediate inspection by a Selectman, Constable or Police Officer for the Town of Mendon. The transaction records and books shall be kept for a minimum of three (3) years.
- B. The Chief of Police shall require second hand dealers to submit all records of transactions to the Mendon Police Department - Second Hand Dealer e-Mail address: pmason@mendonpublicsafety.com on a schedule determined by the Chief of Police. The Chief of Police may require second hand dealers to submit all records of transactions to the New England State Police Information Network (NESPIN) Pawn Electronic Data Base, in accordance with NESPIN protocols and submission schedules.

8. Acceptable Forms Of Identification -Photographs

The second hand dealer must require the following identification from any person selling, bartering, consigning or exchanging person property or articles:

- A. A valid Massachusetts Motor Vehicle Driver's License, Massachusetts Liquor Identification Card, United States Military Identification Card, or a United States Passport, that includes the date of birth, matching photograph, and physical description of the person offering the identification; or
- B. Two other forms of current identification, at least one of which is issued by a governmental agency (e.g. Massachusetts Identification Card), one of which includes the name and address of the presenter, and either containing the name and date of birth of the person offering the identification.

9. Certified Scales

- A. All weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the Sealer of Weights and Measures for the Town of Mendon.

10. Notification To Police Regarding Possible Stolen Property

- A. All second hand dealers shall immediately notify the Mendon Police Department upon receiving an article which is questionable as to its ownership status and for which there is a suspicion that it is stolen property, and shall make such article available to the police for investigation and identification of the true ownership status.
- B. All second hand dealers shall immediately notify the Mendon Police Department when any suspicious or known dishonest person offers for sale any articles of value that the second hand dealer, or their agents or employees, has reason to believe from any circumstances that the article of has been stolen or acquired by dishonest means.
- C. All second hand dealers shall immediately notify the Mendon Police Department, and shall not purchase, any property whose serial number or other identification marking has been wholly or partially tampered with, removed or obliterated, or article which bears the name of a person other than that of the person presenting it for sale, barter, consign or exchange.

11. Receipt Of Second Hand Personal Property Or Articles From A Minor Is Prohibited

- A. No second hand dealer shall purchase, barter, consign or exchange any personal property or article from a minor under the age of eighteen (18) years.
12. Holding Period For Second Hand Personal Property And Articles - Articles To Remain On The Premises
- A. All second hand personal property or articles shall be maintained on the second hand business premises for fourteen days after the date of purchase, barter, consign or exchange. No second hand personal property or article shall be sold, encumbered by sales contract, transferred, altered in its appearance, or otherwise disposed of, within the aforesaid thirty (14) day period.
13. Inspection Of Articles And The Second Hand Business
- A. Any second hand dealer shall open or provide for inspection of all second hand personal property and articles; all books, records and spreadsheets; and the premises of the business; upon demand of a Selectman, Constable or Police Officer for the Town of Mendon.
14. Removal Of Second Hand Property Or Articles By Police Officers.
- A. If a police officer has probable cause to believe that any second hand goods or articles are needed as evidence in a criminal investigation or that said goods or articles are stolen, said officer may seize them as evidence. The second hand dealer shall be issued a receipt for the article(s) and may be listed as a victim in a criminal proceeding. The dealer shall immediately present said articles upon demand of a Mendon police officer.
 - B. The police may keep seized articles as long as is necessary to permit the article to be used as evidence before the court and for such reasonable time thereafter as needed to investigate the identity of the lawful owner in order to return the article to them.
15. Criminal History Checks, Photographing And Fingerprinting

- A. Upon application or license renewal of all persons involved in second hand dealer businesses, the Chief of Police may require that they submit to having facial photographs of themselves and their fingerprints taken or recorded by the Mendon Police Department. The Chief of Police or designee will review their criminal history and will determine their suitability consistent with these Rules and Regulations and will report same to the Town Administrator.

16. Fees

- A. The annual fee for the business license for second hand dealer shall be set annually by the Board of Selectmen.

17. Enforcement And Violations

- A. Violation of any provision of this Regulation may be fined up to three hundred dollars (\$300.00) for each violation. Each transaction shall constitute a separate violation. With regard to operating without a license, each calendar day shall constitute a violation.