

Town of Auburn, Massachusetts

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Section 300

BOARD OF SELECTMEN POLICY

Secondhand Dealers and Pawnshops

1. Authority

A. The Auburn Board of Selectmen as the licensing authority adopts this policy for the licensing and regulation of secondhand dealers and pawnshops for the Town of Auburn Massachusetts.

2. Purpose

A. The primary intent of this regulation is to establish a system which fairly and impartially regulates the sale of secondhand articles by dealers and pawnbrokers for the stated purpose of:

- i. identifying stolen property that may be received by such dealers and pawnbrokers;
- ii. deter and prevent the sale of stolen goods insomuch as possible; and or,
- iii. as an aid to law enforcement in their duty to apprehend and prosecute any person who facilitates the theft, possession and or sale of stolen goods, while enabling the return of stolen property to the rightful owners.

3. Secondhand dealers and pawnshops—License required

A. Secondhand dealers and pawnshops shall be licensed by the Board of Selectmen prior to engaging in said activity and shall comply with these rules and regulations promulgated by the Board of Selectmen in accordance with M.G.L. C. 140, § 54.

B. Applications for new licenses and renewal licenses shall be made in writing on forms provided for this purpose 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 Auburn in which it is to be carried on. Each license granted shall be issued on a location specific basis. No license shall be granted to transient or temporary businesses, only permanent business locations.

C. 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.

D. No license may be transferred or sold to another person, entity or business location.

E. The license shall be clearly and prominently displayed in a suitable and conspicuous place within the shop.

4. Definitions

- A. AUCTION – Shall mean the sale of real or personal property, or both, 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 the secondhand dealer or pawnbroker who has purchased or otherwise obtained custody, (whether temporary or permanent) of secondhand articles, used goods old junk, scrap metals, or unwanted personal property. This definition shall also refer to any person who acquires such goods from a secondhand dealer or pawnbroker as a gift or in lieu of some form of compensation.
- C. CONSIGNMENT – Shall mean any person who has relinquish control or is intending to relinquish custody (whether temporary or permanent)
- D. PAWNBROKER – A person who is engaged in the business of loaning money on the deposit or pledge of wearing apparel, jewelry, ornaments, household goods or other personal property on condition of selling the same back again at stipulated price.
- E. SECONDHAND DEALER- Has the same meaning as the term “secondhand collector”, "junk dealer" junk collector” and "keeper of a shop” for the purchase, sale or barter of junk, old metals, rags, bottles or secondhand articles" in MGL c. 140, § 54. A secondhand dealer shall mean any person, firm corporation partnership engaged in the business of buying , selling, exchanging, or dealing in any way with secondhand articles, used goods, old junk, scrap metals, or unwanted personal property; regardless of the number of transactions (frequency of sales shall not be relevant) or the location where such sales take place (having a dedicated shop or store and the use of residential property shall not be relevant) This definition shall include all persons who conduct business in the sale of unwanted personal property at a flea market, antique shop, coin show, gun show, jewelry show, refinery reclamation drive, and or any jewelry store whose gross sales of used items exceeds twenty-five (25) percent of total receipts per day (on average).
- F. SELLER – Shall mean any person who relinquished or is intending to relinquish custody, (whether temporary or permanently) of secondhand articles, used goods old junk, scrap metals, or unwanted personal property by means of offering for sale, consignment, barter exchange loan or to hold as security.

5. Regulated Property

The following used property (hereinafter also referred to as an “article”):

- A. 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.

- B. 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.
- C. 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.
- D. Sterling silver flatware, including but not limited to knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.
- E. Any electronic audio, video or photographic and optical equipment, along with computer or computer equipment or recordings in any form.
- F. Any power tools or equipment.
- G. Musical instruments.
- H. Sporting equipment.
- I. Cellular phones.
- j. Any electronic device such as televisions, receivers, speakers, gaming devices, radios, audio players and recorders.
- J. Automobiles, boats, planes, motorcycles, in whole or taken in parts, or any other type machinery.
- K. Collectibles, including objects of art, coins, furs, tools, figurines, currency and antique objects.

6. License applications –General

- A. Applications for new and renewal licenses shall be made in writing on forms provided by the Office of the Auburn Board of Selectmen.
- B. License applications upon completion shall be forwarded for review to the Auburn “Development Coordinating Group” (DCG) for up to thirty (30) days, prior to submission to the Board of Selectmen. Each official or the DCG Board 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.
- C. Under no circumstances shall a license be issued for any establishment or premises that is not compliant with zoning, building or fire code. The grant of a license shall not be evidence or proof of zoning, building or fire code compliance.
- D. Any alterations to the building or signs (exclusive of re-facing) will require that the applicant secure the proper permits from the Building Inspections Division.

7. Issuance, renewal and revocation of licenses.

- A. The Licensing Authority of the Town of Auburn may, after notice and public hearing, deny or modify an original or renewal application for a secondhand dealer or pawnbroker license or revoke an issued license if it has reasonable cause to believe any of the following conditions exist after said public hearing and:
 - i. the applicant, or any person who in part or whole, owns, manages or operates the secondhand dealer or pawnbroker, has owned or operated any substantially similar licensed businesses and, within the five years prior to the application date he or she had a secondhand dealer or pawnbroker license revoked for a reason that would be grounds for a denial or revocation pursuant this policy;

- ii. the secondhand dealer or pawnbroker business has been found to constitute a public nuisance;
- iii. the licensee applicant, or any person who, in part or whole, owns, manages or operates the secondhand dealer or pawnbroker, has been convicted of a felony or any crime involving a false or fraudulent statement within 15 years prior to the application date, (a Continued Without a Finding shall be re-viewed as a finding or admission of guilt);
- iv. the applicant has:
 - (a) knowingly made a false statement in the application;
 - (b) knowingly 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;
 - (d) a lawful inspection during regular business hours of the secondhand dealer or pawnbroker premises, books, forms or records by the Police Chief or his designee has been unjustifiably refused by a person who, in part or whole, manages or operates the business;
 - (e) the secondhand dealer or pawnbroker business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has more than three violations of these regulations, any state or federal law, or any combination thereof within a two-year period, including the two years prior to the application date;
 - (f) the secondhand dealer or pawnbroker, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has been convicted of any law of the Commonwealth of Massachusetts that is contrary to the type of secondhand business or pawnbroker to be conducted, such as, 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, as verified by a CORI by the Police Chief or his designee; and or,
 - (g) such other grounds as the Licensing Authority determine to be in the public interest or in violation of the conditions of the license or any law or regulation of the commonwealth or the Town of Auburn.

8. Records of purchases -Transaction Records

- A. A secondhand dealer or pawnbroker, the acquisition, regardless of the manner of acquisition, of any article, good or item subject to licensing hereunder shall prepare a transaction record upon a form approved by the Chief of Police or designee, stating:
 - i. the full name, current address, date of birth and driver's license number of the seller;
 - ii. the date and time of transaction;
 - iii. a full, detailed and accurate description (including color, make, model, serial numbers, distinguishing marks or engravings) of each article;
 - iv. the amount paid for each article; and,
 - v. the name of the employee or person receiving the item.
- B. All items identified in Section 5 of this policy (Regulated Property) shall be photographed or photocopied in reasonable detail. Said photograph shall accurately and clearly represent the article.

- C. A secondhand dealer or pawnbroker shall maintain the original transaction records, books and all photographs for a minimum of three (3) years.

9. Acceptable forms of identification -Photographs

Either:

- A. A valid (unexpired) Massachusetts driver's license 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 or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.
- C. All dealers or pawnbrokers at the time of purchase shall take a color photograph of the face of the seller of any article.
- D. Each seller shall sign his or her true name on the transaction record verifying they are the property owner.

10. 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, of the Town of Auburn. Licensees shall not allow those certifications to lapse.

11. New England State Police Information Network (NESPIN) – Data Submission

- A. All secondhand dealers or pawnbrokers shall submit all records of transactions in accordance with (NESPIN) electronic database protocols and submission schedules.
 - i. All said dealers or pawnbrokers shall simultaneously forward the identical electronic transactions as submitted to NESPIN to the Auburn Police Department to the chief of police or designee.

12. Records of purchases – Transaction Book

- A. A secondhand dealer or pawnbroker shall also record each transaction, with the information required in a bound book with consecutively numbered pages. The book shall be of a size and style approved by the Chief of Police or his designee. All entries shall be in ink, legible, written in English and assigned a number. The corresponding number shall be attached to the item. No entry in the book shall be erased, obliterated, altered or defaced.
- B. The transaction book shall at all reasonable times be open to the inspection by the chief of police or any officer or person duly authorized by him, or any other person authorized under law. The transaction books shall be kept for a minimum of three (3) years after the secondhand dealer last does business in the Town of Auburn.

13. Notification to police regarding possible stolen property

- A. All secondhand dealers or pawnbrokers shall immediately notify the Auburn Police Department upon receiving an article which is questionable as to its status of being stolen and shall make such article available for identification by an officer of the police department.
- B. In case any suspicious or known dishonest person shall offer for sale to any secondhand dealer or pawnbroker, his employee or agent, any articles of value, and he has reason to believe from any circumstances that the same has been stolen or acquired by dishonest means, it shall be his duty to report the same at once to the police.
- C. All secondhand dealer or pawnbroker shall not purchase any property whose serial number or other identifiable marking has been wholly or partially tampered with or removed or the article bears the name of a person, not the seller.

14. Receipt of articles from minor -prohibited

- A. No secondhand dealer or pawnbroker shall directly or indirectly purchase or receive by way of barter or exchange any article, secondhand articles, junk or metals from a minor under the age of 18.

15. Holding period before sale

- A. No secondhand or pawned article herein described shall be sold, encumbered by sales contract, transferred altered in its appearance, or otherwise disposed of, within thirty (30) days of purchase.

16. Articles to remain on premises

- A. All articles purchased shall remain on the premises during the waiting period; items shall not be placed on the sales floor until the waiting period has expired, unless the item is clearly marked with the corresponding transaction number and the sales release date based on the time frame as specified.

17. Examination of articles and shop.

- A. Any secondhand dealer or pawnbroker shall during regular business hours be open to inspection of all secondhand articles, pawned goods, junk and or metals, books, the premises, or inventories by the Chief of Police or any officer or person duly authorized by him, or any other person authorized under law.

18. Removal of articles by police officers.

- A. If the chief of police or designee determines that any secondhand goods, pawned goods or articles are needed for evidence in a criminal investigation, a duly authorized police officer may seize that evidence, subject to applicable criminal procedures, if any. The secondhand dealer, metal dealer or junk dealer shall be issued a receipt for the article(s).

- B. The chief of police or designee may keep seized articles, subject to a courts direction, if any, as long as necessary to permit the article to be used as evidence and for such reasonable time thereafter as needed to best determine, if possible, the person(s), if any, lawfully entitled to said property and return the same to them.

19. Rules and regulations

- A. The licensing authority the Board of Selectmen may adopt rules, regulations and policy governing the issuance and conduct of secondhand dealers or pawnbrokers pursuant to the authority granted by Chapter 140, Section 54 of the General Laws and/or pursuant to the authority granted by this Regulation.

20. Cori - Criminal History Checks

- A. Upon application or license renewal of all persons involved in secondhand dealer or as a pawnbroker shall submit to a CORI check of their criminal history. The Chief of Police or designee shall determine the suitability of the applicant and report the same to the Board of Selectmen.

21. Fees

- A. The annual fee for individual CORI criminal history checks for each licensed dealer or pawnbroker and each employee or agent shall be one hundred dollars (\$100.00) made payable to the Auburn Police Department.
- B. The annual fee for the business license for secondhand dealer or pawnbroker shall be set annually by the Board of Selectmen.

22. Enforcement and Violations

- A. Violation of any provision of this Regulation may be prosecuted as a criminal matter or as an administrative procedure or by the method provided in § 21D of Chapter 40 of the General Laws. Each day a violation occurs shall be considered separately.
- B. Whoever violates the provisions of this chapter shall be fined not more than \$300. The Licensing Authority the Board of Selectmen in accordance with M.G.L. c. 140, § 54 and further subject to §§ 202 through 205 of General Laws c.140, inclusive, may suspend, revoke or modify any license whenever it has reasonable cause to believe the licensee has violated the law, terms, conditions or regulations pertaining to such license. Any violation of this chapter enforced by the methods provided in § 21D of Chapter 40 of the General Laws shall be subject to a fine set annually by the Board of Selectmen.

Accepted by Vote of the Board of Selectmen: 1/14/13