

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-08

An Ordinance Amending Title 20 of the City and Borough Code to Provide for the Regulation of Secondhand Dealers and Providing for a Penalty.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. New Chapter. Title 20 is amended to create a new chapter entitled CBJ 20.05 Secondhand Dealers, to read as follows:

20.05.010 Duty to maintain and submit electronic record of transactions.

(a) A person engaged in the business of buying and selling secondhand articles, except a bank or a person regulated by AS 08.76.100 - 08.76.590, shall maintain an electronic record containing the following information for all secondhand article transactions:

- (1) The date of the transaction;
- (2) The name of the secondhand dealer conducting the transaction;
- (3) The name, age, and address of the customer selling or consigning the secondhand article;

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3 (4) The type of government-issued identification used by the customer, the
4 name of the government agency that issued the identification, and the number written on
5 the identification;

6 (5) The amount of the purchase price paid by the secondhand dealer to the
7 customer; and

8 (6) A complete and accurate description of the secondhand item that is the
9 subject of the transaction, including as applicable:

10 (A) The item's brand name, model number, manufacturer's serial
11 number, and all letters and marks inscribed;

12 (B) The type of action and caliber or gauge, if the property is a
13 firearm; and
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15 (C) If the secondhand article is a piece of jewelry, a digital
16 photograph, in .PNG, .JPEG, or .GIF format, of the article.

17 (b) Transactions shall be recorded in chronological order.

18 (c) A secondhand dealer may not falsify or intentionally fail to collect or maintain
19 an electronic record required by this section.

20 (d) An electronic report of all transactions shall be provided to the Juneau Police
21 Department on a weekly basis. The report is confidential under AS 40.25.100 - 40.25.220
22 and may only be used by a police officer to investigate a crime involving the property that is
23 the subject of the secondhand transactions.
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25 (e) A person who violates any provision of this section is guilty of a B
misdemeanor and upon conviction is punishable by a fine of not more than \$1000, or by
imprisonment for not more than 90 days, or by both.

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4 **20.05.020 Label or tag requirement.**

5 A secondhand dealer, upon purchasing an article or receiving an article in
6 consignment, shall affix to the article a legible, identifying label or tag to correspond to that
7 item's entry in in the electronic reporting system required by section 20.05.010.
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9 **20.05.030 Customer and transaction limitations.**

10 (a) A secondhand dealer may not knowingly purchase secondhand articles
11 from a person who is:
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13 (1) Under 18 years of age;

14 (2) Under the influence of alcohol or a controlled substance when the
15 influence is apparent; or

16 (3) Using the name of another person.

17 (b) A secondhand dealer may not knowingly accept or receive misappropriated
18 property from a person in a purchase transaction.
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20 **20.05.040 Retention, storage and lease.**

21 A secondhand dealer shall store purchased or consigned secondhand property in a
22 secure area.
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24 **20.05.050 Required holding period for purchased and consigned articles.**

25 (a) It is unlawful for a secondhand dealer to sell, transfer, exchange or otherwise
dispose of any purchased goods or articles required to be reported to the police department

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3 under the provisions of this chapter except as provided herein.

4 (b) Property reported as a result of transactions described in this chapter shall
5 not be sold, transferred, exchanged or otherwise disposed of until the property has been in
6 the custody of the reporting secondhand dealer for a period of at least thirty (30) days since
7 the property was reported to the police department pursuant to section 20.05.010(d).

8 (c) During the period that the property is held pursuant to this chapter, the
9 secondhand dealer shall preserve it in the condition in which it was received and shall not
10 dismantle, scrap, melt-down, press, transform, or otherwise disfigure it until it has been
11 held for the period required by this section. During the holding period, all items that have
12 been purchased or taken in on consignment must remain on the premises of the place of
13 business where the items were taken in by the secondhand dealer.
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16 **20.05.060 Employees.**

17 A secondhand dealer may not knowingly employ a person to work in a secondhand
18 shop if, within five years before the employment begins, the person was convicted of, entered
19 a plea of guilty to, entered a plea of no contest to, or had adjudication withheld for a felony
20 or misdemeanor involving dishonesty.
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24 **20.05.070 Issuance of police hold order.**
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(a) When a police officer has probable cause to believe that property in the
possession of a secondhand dealer in a second hand shop has been misappropriated, the

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3 police officer may issue a police hold order that directs the secondhand dealer not to release
4 or dispose of the property until the police hold order terminates or a court orders the release
5 or disposal.

6 (b) A police hold order begins when the secondhand dealer or the secondhand
7 dealer's designee receives the police hold order.

8 (c) A police hold order may not exceed 30 days. However, if the probable cause
9 belief required by subsection (a) continues, a police officer may extend the police hold order
10 for two additional successive 30-day periods by giving written notification to the secondhand
11 dealer before the expiration of each 30-day period.

12 (d) A new police hold order may not be issued for the same property after the
13 second additional 30-day period allowed under this section. However, the termination of
14 the police hold order does not affect an existing evidentiary hold order on the same property
15 or prevent the issuance of an evidentiary hold order for the same property.

16 (e) A police hold order may be terminated before the end of a 30-day period by the
17 issuing officer or the officer's designee issuing a written release to the secondhand dealer.
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20 **20.05.080. Evidentiary hold order.**

21 (a) When property in the possession of a secondhand dealer may be needed as
22 evidence in a filed court action involving a criminal charge, the Juneau Police Department
23 may issue an evidentiary hold order to a secondhand dealer that directs the secondhand
24 dealer not to release or dispose of the property until the evidentiary hold order terminates
25 or a court orders the release or disposal.

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3 (b) A secondhand dealer who receives an evidentiary hold order under (a) of this
4 section shall hold the property until notified by the police department in writing of the
5 disposition of the filed court action. The police department shall notify the secondhand
6 dealer within 15 days after the disposition of the filed court action for which the property
7 may be needed as evidence.
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10 **20.05.090 Contents of hold order.**

11 A hold order issued under sections 20.05.070 and 20.05.080 must be in writing and
12 contain:

- 13 (a) The name of the secondhand dealer;
14 (b) The name, title, and identification number of the police officer issuing the hold
15 order;
16 (c) The number, if any, assigned by Juneau Police Department to the case, and,
17 for an evidentiary hold order, the number and caption of the filed court action;
18 (d) A complete description of the property being held, including the model
19 number and serial number, if any;
20 (e) The mailing address of the secondhand dealer shop where the property is
21 being held; and
22 (f) The expiration date of the hold order.
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25.05.100 Exemptions.

This chapter does not apply to:

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3 (a) A financial institution such as a commercial bank, savings bank, credit union,
4 premium finance company, small loan company, bank holding company, financial holding
5 company, trust company, savings and loan association, and deferred deposit advance
6 licensee under AS 06.50; or a financial institution organized under federal law;

7 (b) Persons engaged in the business of selling, trading, exchanging, consigning, or
8 otherwise dealing in recycling metal cans, paper, cardboard, or glass;

9 (c) Persons engaged in the business of selling, trading, exchanging, consigning, or
10 otherwise dealing in used books, tires (excluding rims), clothing, postage stamps, trading
11 cards, comic books, furniture (other than appliances), works of art placed on consignment by
12 the original artist, and sports memorabilia valued at one hundred dollars or less;

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14 (d) Organizations that have been determined to be exempt from taxation,
15 pursuant to Section 50 I(c) of the Internal Revenue Code, by the Internal Revenue Service,
16 including churches and religious organizations;

17 (e) Persons engaged in the business of buying, selling, trading, exchanging,
18 consigning, or otherwise dealing in DVDs, CDs, videos, vinyl records, tapes, or computer
19 video games;

20 (f) Persons engaged in the business of buying, selling, trading, exchanging,
21 consigning or otherwise dealing in goods or articles that are not considered a precious item
22 and do not bear a serial number or owner applied number and that has a fair market value
23 of less than one hundred dollars (\$100.00); or

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25 (g) Persons engaged in the business of buying, selling, trading, exchanging,
consigning or otherwise dealing in goods or articles that are considered home decor items

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3 and do not bear a serial number or owner-applied number and hat have a fair market value
4 of less than five hundred dollars (\$500.00).

5 (h) Persons engaged in the business of buying, selling, trading, exchanging,
6 consigning or otherwise dealing in secondhand sports equipment.

7 (i) Casual or isolated transactions made by any person offering his or her own
8 personal property for sale, purchase or consignment or that are not made:

9 (1) Pursuant to a business license; or

10 (2) By secondhand dealers representing themselves to be in the business
11 of buying, selling, trading, exchanging, consigning or otherwise dealing in secondhand goods
12 or articles.
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15 **20.05.110 Inspection by police.**

16 If a police officer provides the case number assigned to the investigation for which
17 the inspection is being made, a secondhand dealer may not refuse to allow the police to
18 inspect during normal business hours the purchased or consigned property involved in the
19 investigation.
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21 **20.05.120 Violations.**

22 Any person, firm, copartnership or corporation violating any provision of 20.05.020
23 – 20.05.110 is guilty of an infraction and upon conviction thereof, shall be punished
24 according to section 01.40.010.
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20.05.130 Definitions

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In this chapter:

Person means an individual, corporation, limited liability company, partnership or association.

Police department or police officer means the Juneau Police Department or a Juneau Police Officer.

Secondhand dealer means a person engaged in the buying, selling, trading, exchanging, or consigning used goods or articles, including, but not limited to: antiques; jewelry; precious metals, such as gold or gold-plated ware, silver or silver-plated ware, or platinum ware; precious and semi-precious stones; watches; bullion or coins. "Secondhand dealer" shall not include auctioneers.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2014.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Municipal Clerk