

Presented by: The Manager
Introduced: 06/09/2014
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-08(c)am

An Ordinance Amending Title 20 of the City and Borough Code to Provide for the Regulation of Secondhand Dealers of Certain Property 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 Applicability of Chapter. This chapter applies to the buying, trading, exchanging, consigning or selling of the following property by secondhand dealers:

- (a) Precious metals;
- (b) Precious gems;
- (c) Coins or bullion;
- (d) Electronic equipment with a resale value over \$50.00;
- (e) Firearms; and
- (f) Tools with a resale value over \$50.00.

20.05.020 Duty to maintain and submit electronic record of transactions.

(a) A person engaged in the business of buying and selling property described in section 20.05.010, 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 transactions of property described in section 20.05.010:

- (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;
- (4) The type of government-issued identification used by the customer, the name of the government agency that issued the identification, and the number written on the identification;
- (5) The amount of the purchase price paid by the secondhand dealer to the customer; and
- (6) A complete and accurate description of the secondhand item that is the subject of the transaction, including as applicable:
 - (A) The item's brand name, model number, manufacturer's serial number, and all letters and marks inscribed;
 - (B) The type of action and caliber or gauge, if the property is a firearm; and
 - (C) If the secondhand article is a piece of jewelry, a digital photograph, in .PNG, .JPEG, or .GIF format, of the article.

(b) Transactions shall be recorded in chronological order.

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

(d) An electronic report of all transactions shall be provided to the Juneau Police Department on a weekly basis. The report is confidential under AS 40.25.100 - 40.25.220 and may only be used by a police officer to investigate a crime involving the property that is the subject of the secondhand transactions.

(e) A person who violates any provision of this section is guilty of a Class 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.

20.05.030 Label or tag requirement.

(a) A secondhand dealer, upon purchasing or receiving in consignment an article described in section 20.05.010, shall affix to the article a legible, identifying label or tag to correspond to that item's entry in the electronic reporting system required by section 20.05.010.

(b) All property described in section 20.05.010 already in the possession or control of a secondhand dealer by the effective date of this chapter shall be labeled or tagged as required by this subsection no later than August 1, 2015.

20.05.040 Customer and transaction limitations.

(a) A secondhand dealer may not knowingly purchase secondhand property described in section 20.05.010 from a person who is:

- (1) Under 18 years of age;
- (2) Under the influence of alcohol or a controlled substance when the influence is apparent; or
- (3) Using the name of another person.

(b) A secondhand dealer may not knowingly accept or receive misappropriated property from a person in a purchase transaction.

20.05.050 Retention, storage and lease.

A secondhand dealer shall store purchased or consigned secondhand property described in section 20.05.010 in a secure area.

20.05.060 Required holding period for certain purchased and consigned property.

(a) It is unlawful for a secondhand dealer to sell, transfer, exchange or otherwise dispose of any purchased property described in section 20.05.010 required to be reported to the police department under the provisions of this chapter except as provided herein.

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

(c) During the period that the property described in section 20.05.010 is held pursuant to this chapter, the secondhand dealer shall preserve it in the condition in which it was received and shall not dismantle, scrap, melt-down, press, transform, or otherwise disfigure it until it has been held for the period required by this section. During the holding period, all items that have been purchased or taken in on consignment must remain on the premises of the place of business where the items were taken in by the secondhand dealer.

20.05.070 Issuance of police hold order.

(a) When a police officer has probable cause to believe that property described in section 20.05.010 in the possession of a secondhand dealer in a second hand shop has been misappropriated, the police officer may issue a police hold order that directs the secondhand dealer not to release or dispose of the property until the police hold order terminates or a court orders the release or disposal.

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

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

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

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

20.05.080. Evidentiary hold order.

(a) When property described in section 20.05.010 in the possession of a secondhand dealer may be needed as evidence in a filed court action involving a criminal charge, the Juneau Police Department may issue an evidentiary hold order to a secondhand dealer that directs the secondhand dealer not to release or dispose of the property until the evidentiary hold order terminates or a court orders the release or disposal.

(b) A secondhand dealer who receives an evidentiary hold order under (a) of this section shall hold the property described in section 20.05.010 until notified by the police department in writing of the disposition of the filed court action. The police department shall notify the secondhand dealer within 15 days after the disposition of the filed court action for which the property may be needed as evidence.

20.05.090 Contents of hold order.

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

(a) The name of the secondhand dealer;

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

20.05.100 Exemptions.

This chapter does not apply to:

- (a) A financial institution such as a commercial bank, savings bank, credit union, premium finance company, small loan company, bank holding company, financial holding company, trust company, savings and loan association, and deferred deposit advance licensee under AS 06.50; or a financial institution organized under federal law;
- (b) Organizations that have been determined to be exempt from taxation, pursuant to Section 501(c) of the Internal Revenue Code, by the Internal Revenue Service, including churches and religious organizations;
- (c) Casual or isolated transactions made by any person offering his or her own personal property for sale, purchase or consignment or that are not made:
 - (1) Pursuant to a business license; or
 - (2) By secondhand dealers representing themselves to be in the business of buying, selling, trading, exchanging, consigning or otherwise dealing in secondhand goods or articles.

20.05.110 Inspection by police.

If a police officer provides the case number assigned to the investigation for which the inspection is being made, a secondhand dealer may not refuse to allow the police to inspect during normal business hours the purchased or consigned property described in section 20.05.010 involved in the investigation.

20.05.120 Violations.

Except as otherwise provided in this chapter, any person, firm, co-partnership or corporation violating any provision of this chapter is guilty of an infraction and upon conviction thereof, shall be punished according to section 01.40.010.

20.05.130 Definitions

In this chapter:

Electronic equipment means audio equipment, video equipment, electrical office equipment, telephones (including satellite phones and smartphones), video game equipment, and other electronic equipment including, but not limited to, global positioning systems and electronic navigation devices.

Firearms includes, but is not limited to, rifles, shotguns, handguns, revolvers, pellet guns and BB guns.

Jewelry means any tangible item of personal property ordinarily wearable on a person consisting in whole or in part of any metal, mineral or gem customarily regarded as precious.

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.

Precious gems means any gem that is valued for its character, rarity, beauty or quality, including but not limited to, diamonds, rubies, emeralds, sapphires, opals, pearls or any other such precious gems or stones, whether as a separate item or in combination as a piece of jewelry.

Precious metals means any metal that is valued for its character, rarity, beauty or quality, including, but not limited to, gold, silver, platinum, or any other such metals, whether as a separate item or in combination as a piece of jewelry, except for unrefined ore concentrate or precious metals in an unadulterated, raw form obtained through casual, isolated recreational mining efforts.

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

Tools means power equipment and tools including but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, logging equipment, welding or cutting equipment and components, measuring devices and gauges or construction equipment.

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

Adopted this 11th day of August, 2014.


Merrill Sanford, Mayor

Attest:


Elizabeth J. McEwen, Deputy Clerk