

VILLAGE OF ISLAND PARK
LOCAL LAW NO. 4 OF 1981

A local law controlling and regulating second hand dealer

Be it enacted by the Board of Trustees of the Village of Island Park as follows:

Section 1. General Provisions.

A. Definition.

DEALER IN SECOND-HAND ARTICLES shall mean any person who in any way, as principal, broker or agent:

- (1) deals in the commercial purchase or sale of second—hand articles for any purpose and of whatever nature, including, but not limited to, old gold or other precious metals, coins, stamps or currency, firearms, rifles, shotguns, cameras, business machines, musical instruments, outboard motors, or electronic equipment;
- (2) accepts or receives second-hand articles as returns of merchandise or in exchange for or for credits on any other articles or merchandise;
- (3) deals in the commercial purchase or sale of pawnbroker tickets or other evidence of pledged articles.

Nothing contained in this chapter shall be construed to apply to:

- (1) automobiles, pianos, books, magazines, rugs, tapestries, artists burlaps, paintings, sculpture, drawings, etchings, and engravings;

- (2) the first purchase or sale in the country of any imported second—hand article;
- (3) the acceptance or receipt of merchandise in e new condition as a return, exchange or for credit or refund, if such merchandise was originally purchased as new merchandise from the person accepting or receiving the same, nor to any resale of such merchandise as “new merchandise” or the first subsequent non-retail or exchange of such merchandise as “used merchandise”;
- (4) the acceptance or receipt of merchandise in a used condition as a return , trade-in, exchange or for credit or refund if such merchandise was originally purchased as new merchandise from third person accepting or receiving the same, nor to the first subsequent non-retail, sale or exchange of such merchandise;
- (5) the first sale, at retail, of merchandise which has been rebuilt by the manufacturer or vendor orig4inally manufacturing it, or the licensed agents thereof, sold as factory rebuilt merchandise;
- (6) a thrift shop, as defined to be so classified under the united States internal revenue code, entitled to an exemption as an eleemosynary corporation or institution;
- (7) antiques, which shall mean second—hand articles over fifty (50) years of age, having a value of less than two-hundred fifty dollars (\$250), and void of any means of identification. Identification shall mean articles which are serialized, monogrammed, initialed or distinctly marked.

C. Proof.

The burden of proof that an article was originally purchased from the person accepting or receiving it, that it was the first subsequent sale or exchange thereof to a person other than an ultimate consumer, or that it was a first sale at

retail of such factory rebuilt merchandise, shall be upon the person asserting the same. Evidence of an existing trade practice in the village of Island Park, if any, shall be admissible for the purpose of determining whether or not merchandise is in "new" or "used" condition.

D. Interpretation.

In interpreting and applying the provisions of this chapter, the rule of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this chapter shall be observed. All provisions shall be;

- (1) considered as minimum requirements; and
- (2) deemed neither to limit nor repeal any other powers granted to the Village of Island Park under New York state statutes.

E Severability.

Any clause, sentence, section, paragraph or provision of this local law shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law but shall be confined in its operation to the clause, sentence, section, paragraph or provision directly involved in the controversy in which such judgment shall have been rendered.

F. Disclaimer of liability.

This chapter shall not create any liability on the part of the Village of Island Park, its officers, agents or employees, the Nassau county police department, its officers, agents or employees, for any act or damage caused as a result from reliance on this local law or any administrative decision lawfully made thereunder.

Section 2. License required

A. It shall be unlawful for any person to act as a dealer in second-hand articles without a license therefor.

B. There shall be three types of licenses:

- (1) general license;
- (2) management license;
- (3) exposition license .

A general license shall authorize the licensee to act as a second-hand dealer with respect to all articles, other than second-hand automobiles, within the Village of Island Park during the license period specified in subdivision "D" of section 3 of this local law.

A management license shall authorize the licensee, who is not a dealer in antiques or unique second—hand articles, to operate and manage an antique or unique second-hand articles exposition where such antiques or unique second hand articles are sold at any fair, show or exhibit or any place where this merchandise is offered for sale Within the Village 9f Island Park during a period of one month from the date of issuance of such license.

An exposition license shall authorize a dealer in antiques or unique second-hand articles who maintain no place of business within the Village of Island Park to exhibit and sell such articles at any fair, show or exposition within the Village of Island Park during a period of one month from the date of issuance of such license.

Section 3. Bonds, Fees; term; conditions of licenses:

A. Each dealer securing a general license shall furnish a bond to the Village of Island Park, with sufficient surety to be approved by the Village Clerk in the penal sum of two thousand dollars (\$2,000)conditioned for the due observance of the law relating to such dealers.

B. Each manager of an antique or unique articles exposition shall furnish a bond to the Village of Island Park, with sufficient surety to be approved by the town clerk in the

penal sum of two thousand dollars (\$2,000) conditioned for the due observance of the law relating to dealers who are exhibitors at the exposition.

C. The annual license fee for licenses shall be as follows:

- (1) general or management license fee shall be fifty dollars (\$50);
- (2) exposition license fee shall be twenty-five dollars (\$25).

D. All general licenses shall expire on the first day of April next succeeding the date of issuance thereof, unless sooner revoked or suspended. A new application for a license must be made yearly if the licensee desires to continue such activity.

E. All licenses shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity of business for which it is issued.

F. All licenses are personal with the licensees. It does not go with title to the land nor may it be sold, assigned, transferred or disposed of.

G. Any license may be revoked or suspended by the Village Board of the Village of Island Park after a hearing thereon pursuant to the provisions of section 17 herein, at which time the licensee shall have an opportunity to be heard.

H. The granting, refusal, revocation or suspension of any license by the village board shall be subject to review by certiorari after applicant or licensee has exhausted all administrative remedies.

Section 4. Application for license.

Applicants for a license under this chapter must file with the village clerk of the village of Island Park an application, supplied by the village clerk, containing the following information;

A. Name and description of the applicant. Individuals operating under a trade name must present a certified copy of the trade name certificate filed in the Nassau County Clerk's Office. A partnership conducting business, whether or not under a trade name, must submit a certified copy of the partnership certificate filed in the Nassau

County Clerk's Office when partnership was formed. A corporation must furnish a photostatic copy of the filing receipt for the certificate of incorporation from the New York State Secretary of State. A corporation from outside New York State must furnish a photostatic copy of its application for authority to do business in New York state from the New York State Secretary of State.

B. Address of applicant (local and legal).

C. That the applicant is of legal age.

D. That the applicant is a citizen of the United States and whether citizenship was obtained by birth or naturalization. If by naturalization, the date and place where obtained. The naturalization certificate or permanent board of elections personal registration card may be used as proof of citizenship;

E. A statement as to whether or not applicant has never been convicted of or now under charge of any crime, misdemeanor or violation of any ordinance, the nature of the offense and the punishment or penalty assessed therefor, and such other facts or evidence as is deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought.

F. A description of the exact type of business applicant - intends to conduct.

G. The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.

H. Two (2) photographs of the applicant, taken not more than sixty (60) days prior to the filing of the application which photographs shall be two inches by two inches (2x2-) showing the head and shoulders of the applicant in a clear and distinguishing manner. two photographs and fingerprints are required of each individual applicant; two photographs and fingerprints are required of each partner; no photographs are required of corporate applicants, but all officers must be fingerprinted, as well as any stockholder of ten percent (10%) or more of the stock.

I. If applicant is a corporation, name, address, and title of officer of corporation upon whom process or other legal notice may be served.

J. A copy of the applicant's fingerprints shall be mailed to the division of criminal justice services, Albany, New York, requesting a fingerprint search.

The Village Clerk shall secure from the applicant the required fee in the form of a check or money order made payable to the "New York State Division of Criminal Justice Services".

Section 5. Issuance of license.

A. Upon receipt of the license application and upon the approval by the village clerk of the Village of Island Park and the payment of the prescribed fees by and bonds required of the applicant, the village clerk shall prepare and deliver to the applicant, his license.

B. Every license issued hereunder shall be signed at the direction and in the name of the Village Clerk and sealed with the seal of the Village of Island Park.

C. The Village Clerk shall keep a record of all licenses issued, as well as any other matters herein described.

D. No license shall be granted under this chapter to any dealer in second-hand articles:

- (1) who has been convicted of any offense which, under the laws of the state of New York, constitutes a crime involving moral turpitude;
- (2) who has been found by any court of the state to have practiced any fraud, deceit or misrepresentation in the conduct of the second hand dealer business unless the village clerk, after village board approval, shall decide in any particular case upon the facts there presented that it is proper to issue the license applied for;
- (3) whose license under this chapter has been revoked at any time during the year prior to the time of the application for the

license; or

- (4) whose license has been suspended under this chapter, and the period of such suspension has not expired at the time of this application for the license.

Section 6. Report to the Nassau county police commissioner.

Every dealer in second-hand articles shall furnish to the police commissioner of Nassau county, or his agent, at such times, in such manner and at such intervals as shall be specified by the police commissioner, all information requested by the police commissioner relative to all records required to be kept under this local law, Such information shall be supplied on forms to be designated and supplied by the police commissioner. Duly licensed dealers in antiques shall furnish daily reports of purchases of second-hand articles within seventy-two (72) hours.

Section 7. Restrictions.

A. It shall be unlawful for any dealer in second hand articles to engage in selling activities at any place other than the place of business designated in such license.

B. It shall be unlawful for any dealer in second-hand articles to purchase any second-hand goods or things from any person whom he knows to be or has reason to believe is a minor.

C. With the exception of duly licensed dealers in antiques, it shall be unlawful for any dealer in second—hand articles to purchase any second—hand goods or articles from any person between the hours of ten o'clock in the evening and seven o'clock in the morning.

D. It shall be unlawful for any dealer in second—hand articles to sell or dispose of any second—hand articles, except articles purchased from another second-hand dealer duly licensed by the Village of Island Park, until the expiration of fifteen (15) business days after the acquisition by such dealer of such articles. Duly licensed dealers in antiques may sell or dispose of second-hand articles for a period of time less than the expiration of said fifteen (15) days mentioned above, provided the required record of

purchases and sales are met pursuant to section 10.

E. It shall be unlawful for any dealer in second-hand articles to be licensed as a pawnbroker or to engage in the business of a pawnbroker; nor shall any sign or emblem be displayed by any such dealer in or about the premises where such business is conducted which in any way resembles the sign or emblem commonly used by pawnbrokers, or which is intended to give the appearance that the business conducted on such premises is, or is connected with, the business of a pawnbroker.

F. It shall be unlawful for any person licensed as a second-hand dealer to deal in the purchase or sale of any junk, old rope, old iron, brass, copper, tin, lead, rubber, paper, rags, bagging, slush or empty bottles, or employ or use a boat, cart, or other vehicle for the purpose of collecting any such things or materials, unless he is also licensed as a junk dealer therefor.

G. It shall be unlawful for any person licensed as a second—hand dealer to deal in the purchase or sale of second hand motor vehicles or parts therefrom, the processing of used metals for resale and the dumping, storage, burning and disposal of waste, second—hand or used materials of whatever composition, unless he is also licensed as a junkyard therefor.

Section 8. Signs and labels.

Every person licensed as a dealer in second—hand articles who also sells new articles within the licensed premises, shall label all new articles in such manner that the public will be informed of the nature of such articles.

Section 9. Lost or stolen property.

A. If any articles shall be advertised in any newspaper printed in the county of Nassau as having been lost or stolen, and if any goods or articles answering such advertised description or any part thereof shall be in or come into the possession of any dealer in second-hand articles, upon receiving actual written or oral notice of the similarity of description of such articles, such dealer shall immediately give information relating thereto to the police commissioner of Nassau county, or his agent. No disposition of such articles shall be effected until authorization to do so shall be given to such dealer by the police commissioner, or his authorized agent. A dealer in second—hand articles, when

notified by the commissioner of police or his agent that property in his possession is stolen or alleged to be stolen, shall take immediate steps to secure that property, and it shall be marked "police stop". Thereafter, such property shall not be sold or removed from the premises until notification is made to the dealer in writing by the police commissioner of Nassau County or his agent, allowing such removal or sale.

B. Every dealer in second—hand articles who shall have or receive any articles alleged or supposed to have been lost or stolen, shall exhibit the same, on demand, to the commissioner of police of Nassau County, or authorized inspector of licenses, to any police officer, or to any person duly authorized in writing by the commissioner of police to examine such articles, who shall exhibit such written authority to the dealer.

Section 10. Record of purchases and sales.

A. Every dealer in second-hand articles shall keep a bound book, in a form prescribed by the commissioner of police of Nassau County, of consecutively numbered transactions, in which shall be legibly written in English, at the time of every purchase or sale to or from a person other than a dealer in second-hand articles, a description of every second hand article so purchased or sold, the number or numbers and any monograms, inscriptions or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, other metals or coins, stamps or currency, and any monogram, inscription or marks of identification thereon, the name and residence address of the person from whom such purchase was made and the day and hour of the purchase.

B. Every dealer in second-hand articles who receives second—hand articles on consignment shall keep a record, in the above—prescribed book, describing the articles and the name and description of the person or dealer such items are received from.

C. As between dealers, all transactions shall be recorded, in the above-prescribed book, and legible records kept describing the articles, including a detailed description of all jewelry and costume jewelry.

D. Such books shall be kept on the business premises of the second-hand dealership or at the place designated on the duly approved license, at all times during

normal business hours. Such books shall be open to the inspection of any police officer, to the commissioner of police of Nassau County, or any inspector of licenses, or any person duly authorized in writing for such purposes by the commissioner of police who shall exhibit such written authority to the dealer.

E. Duly licensed dealers in antique articles shall keep a record of bulk purchases in the bound book, noting the invoice number on each bulk purchase. All identifiable second-hand articles which are part of the bulk purchase shall be entered individually in the ledger book and reported individually to the Nassau county police commissioner within seventy-two (72) hours after such bulk purchase.

F. Every dealer in second-hand articles shall make available all business premises and any and all rooms or portions of rooms thereof of the second-hand dealership at all times during normal business hours and all articles there in pertaining to the said business for inspection by the Commissioner of Police of Nassau County or any inspector of licenses, or any person duly authorized in writing for such purposes by the Commissioner of Police of Nassau County who shall exhibit such written authority to the dealer.

Section 11. Identity of person from whom purchase is made.

A. It shall be the duty of every second—hand dealer to verify the identity of every person from whom he purchases an article, and to make and keep a written record of the nature of the evidence submitted by such person to prove his identity.

B. Only the following shall be deemed acceptable evidence of identity:

- (1) any official document, except a social security account number card, issued by the United States government, any state, county, municipality or subdivision thereof, any public agency or department thereof, or any public or private employer, which requires and bears signature of the person to whom issued;
- (2) other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable man to believe to be accurate and reliable, when

identification under subdivision one hereof is not available.

C. It shall be the duty of every dealer in second hand articles to require that every person from whom an article is purchased sign his name in the presence of the second hand dealer, and to compare the signature with the signature on the identifying document, if any, and retain on his premises the person's signature together with the number and description of the identifying document, if any.

Section 12. Penalties for offenses; other remedies.

A. A failure to comply with the provisions of section 2, "License required", shall constitute a class "A" misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or imprisonment for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. A failure to comply with the other sections of this chapter shall constitute a violation and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.), or imprisonment for a period not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate and distinct violation hereunder for each day the offense is continued.

C. In addition to the penalties provided above, any offense against the provisions of this chapter shall subject the person committing the offense to a civil penalty in the amount of one thousand dollars (\$1,000) for each day that the offense shall continue, collectible by and in the name of the Village of Island Park.

D. Conviction for any offense against the provisions of this chapter shall constitute and affect an immediate forfeiture of the license.

E. In addition to the above-provided penalties and punishment, the village board also may maintain an action or proceeding in the name of the Village of Island Park in a court of competent jurisdiction to compel compliance with the provisions of this local law or to restrain by injunction an offense against this local law.

Section 13. Duty of police to enforce.

It shall be the duty of any police officer of the County of Nassau to require any person seen dealing in second—hand articles and who is not known by such police officer to be duly licensed, to produce or display his second-hand dealer's license and to enforce the provisions of this chapter against any person found to be Violating .the same.

Section 14. Report of violations.

The Village Clerk of the Village of Island Park shall record all convictions for violations of this chapter which are officially brought to his attention by any authorized agency or person.

Section 15. Revocation or suspension of license.

A. A license issued under the provisions of this chapter may be revoked or suspended by the village clerk after notice for any of the following causes;

- (1) fraud, misrepresentation or false statement contained in the application for the license;
- (2) any violation of this chapter;
- (3) conviction of any crime or offense involving moral turpitude
- (4) conducting the activity as a dealer in second hand articles in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

B. Notice of revocation or suspension of a license shall be given in writing, setting forth specifically the grounds of the complaint. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, in accordance with section thereof.

Section 16. Appeals.

A. The holder of any license which has been suspended or revoked and any applicant who shall have been denied a license under this chapter may apply for a

review of the action of the village clerk as hereinafter provided:

- (1) such application shall be in writing, signed and acknowledged by the applicant, and shall state the ground or grounds on which the applicant claims that the determination of the village clerk was erroneous.
- (2) such application shall be filed with the Village Clerk by the applicant within twenty (20) days after notice of denial of his application or notice of suspension or revocation of his permit by the village clerk has been mailed to him or delivered to him in person.
- (3) upon the filing of such application, a hearing shall be held thereon pursuant to the provisions of section 17 hereof.
- (4) at such hearing the review board shall consider the applicant's application upon the record before the Village Clerk in connection with the village clerk's consideration thereof, and in its discretion receive new or additional evidence in support thereof or in opposition thereto.

B. The review board, after such hearing, may affirm the action of the village clerk or direct the Village Clerk to issue a proper license pursuant to this chapter.

Section 17. Hearings.

Whenever it shall be provided herein that a hearing shall or may be held with respect to any matter:

A. Such hearing shall be held on a date, at a place and hour designated by the presiding supervisor.

B. The village clerk shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and the date, place and hour thereof designated therefor, by mailing a copy thereof to the applicant or license holder concerned at the address shown on the most recent

application of such applicant or licensee, at least ten (10) days before such hearing.

C. If an applicant or licensee requests a hearing, the Mayor shall designate two (2) or more members of the Village Board to conduct said hearing as a review board.

D. The applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf as may be relevant to the subject matter of the hearing.

E. All witnesses shall be sworn and examined under oath.

Section 2. This local law shall take effect immediately upon filing with the Secretary of State.