

# Chapter 7

## Junk and Secondhand Articles

### Section

- Sec. 7-1. Dealers and shopkeepers—License required.
- Sec. 7-2. Definitions.
- Sec. 7-3. Same—Records of purchases: Transaction Record.
- Sec. 7-4. Same—Records of purchases: Book.
- Sec. 7-5. Same—Notification to police regarding possible stolen property.
- Sec. 7-6. Same—Receipt of articles from minor.
- Sec. 7-7. Same—Holding period before sale.
- Sec. 7-8. Same—Examination of articles and shop.
- Sec. 7-9. Removal of articles by police officers.
- Sec. 7-10. Rules and Regulations.
- Sec. 7-11. License suspension and/or revocation.
- Sec. 7-12. Enforcement and Penalties.
- Sec. 7-13. Flea Market.
- Sec. 7-14. Automatic Amusement Devices.

### **Sec. 7-1. Dealers and shopkeepers—License required.**

(a) All dealers in and keepers of shops for the purchase, sale or barter of secondhand articles, junk and/or old metals shall be licensed by the Select Board prior to engaging in said activity and shall comply with these bylaws and any rules and regulations promulgated by the Select Board.

(b) Applications for new licenses and renewal licenses shall be made in writing to the Select Board, with a copy provided to the Stoneham Police Department, on forms provided for this purpose by the Town. Each application shall state the specific place of business (“location”) at which the licensed activity(s) shall take place. Each license granted shall be issued on a location specific basis. No license shall be granted without a specific place of business which is in compliance with applicable zoning bylaws, however the grant of a license shall not be evidence or proof of zoning compliance.

(c) Upon approval, a license shall be issued and shall continue in effect, unless sooner revoked by the Select Board, until April 30th next following. No license may be transferred or assigned.

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

**Sec. 7-2. Definitions.**

(a) Secondhand dealer means any person conducting the business of buying, obtaining, acquiring, receiving, selling, exchanging, dealing in or dealing with secondhand personal property (hereinafter also referred to as an “article”), including, but not limited to jewelry; diamonds; precious or semi-precious stones or gems; precious or semiprecious metals; watches; musical instruments and equipment; cameras; furs; figurines; home and motor vehicle stereo equipment; cellular phones; televisions; radios; video cassette players and recorders; tools; computers and computer equipment; electronic devices and equipment; and motor vehicle accessories, but not including motor vehicles; second hand clothing other than furs; sporting goods; antiques, other than jewelry, watches, diamonds, precious or semi-precious stones or gems, precious or semiprecious metals and figurines, which are at least ten (10) years old; and articles which are part of an estate or administrative sale or an auction. The Select Board may add or delete from the list of articles listed herein by regulation adopted pursuant to Chapter 140, Section 54 of the General Laws.

(b) Junk dealer means any person conducting the business of buying, obtaining, acquiring, receiving, selling, exchanging, dealing in or dealing with junk.

(c) Old metal dealer means any person conducting the business of buying, obtaining, acquiring, receiving, selling, exchanging, dealing in or dealing with old metals.

(d) Person means an individual, firm, partnership, corporation, business trust, estate, partnership association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(e) Conducting the business means that twenty-five percent (25%) or more of the revenues derived by the person at the location or twenty-five percent (25%) of the net floor area of the location arises from the purchase, sale or barter of secondhand articles, junk and/or old metals.

**Sec. 7-3. Same—Records of purchases: Transaction Record.**

(a) Every secondhand dealer, junk dealer and old metal dealer upon 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 Select Board or its 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 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) Each seller shall sign their name on the transaction record.
- (c) The secondhand dealer shall attach a photocopy of the seller's identification, which shall be a photo identification issued by a government agency (i.e. drivers license, liquor identification card, passport, etc.) to the transaction record.
- (d) Jewelry; diamonds; precious or semi-precious stones or gems; precious or semiprecious metals; watches; and figurines shall be photographed or photocopied in reasonable detail. Said photograph shall accurately and clearly represent the article.
- (e) The dealer shall maintain the original transaction record and all photographs for a minimum of three (3) years)
- (f) With respect to secondhand articles, one clear copy of each transaction record, and photograph (if applicable) shall be delivered to the Stoneham Police Department by 12:00 noon, the following business day.
- (g) All transaction records shall be open to inspection by the Chief of Police or any officer or person duly authorized by him, or any other person authorized under law.

**Sec. 7-4. Same—Records of purchases: Book.**

- (a) Each secondhand dealer shall also record each transaction, with the information required pursuant to Section 7-3 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 Stoneham.

**Sec. 7-5. Same—Notification to police regarding possible stolen property.**

Secondhand article, junk and old metal dealers shall immediately notify the Stoneham Police Department upon receiving an article which is questionable as to its status of being

stolen or not, and shall make such article available for identification by an officer of the Police Department.

**Sec. 7-6. Same—Receipt of articles from minor.**

No secondhand, junk or old metal dealer or any employee or agent of such a dealer shall directly or indirectly purchase or receive by way of barter or exchange any article secondhand articles, junk or old metals from a minor.

**Sec. 7-7. Same—Holding period before sale.**

(a) No secondhand article shall be sold, encumbered by sales contract, or otherwise disposed of, or altered in its appearance, within thirty (30) days of purchase, unless the dealer is granted permission, in writing, from the Chief of Police or his designee, but in any case, not within forty-eight (48) hours from the time of purchase. With respect to any secondhand article for which permission is granted by the Chief of Police pursuant to this subparagraph, the person buying or otherwise receiving said article shall complete a transaction record upon a form approved by the Select Board or its designee which provides the information required pursuant to Section 7.3(a) above as applicable to a person buying or receiving a secondhand article.

(b) All items 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 in subparagraph (a), above.

(c) The following are exempt from the holding period requirement of this Section 7-7: auction purchases, estate purchases from an executor/executrix or administrator/administratrix where the purchase is accompanied by written proof of said position.

**Sec. 7-8. Same—Examination of articles and shop.**

Any shop described or governed by Section 7-1 and all secondhand goods, old metals and/or junk therein may at all times be examined by a person authorized in writing by the Chief of Police to make such examination.

**Sec. 7-9. Removal of articles by police officers.**

(a) If the Stoneham Police Department determines that a secondhand good, old metal or junk article(s) is needed for evidence in a criminal investigation, a Stoneham Police

officer may seize that evidence, subject to applicable criminal procedures, if any. The secondhand dealer, old metal dealer or junk dealer shall be issued a receipt for the article(s).

(b) The Stoneham Police Department 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.

#### **Sec. 7-10. Rules and regulations.**

The Select Board may adopt rules and regulations governing the issuance and conduct of business for secondhand, junk and old metal dealers pursuant to the authority granted by Chapter 140, Section 54 of the General Laws and/or pursuant to the authority granted by this Section 7-10.

#### **Sec. 7-11. License suspension and/or revocation.**

Any license issued hereunder may be suspended or revoked, after a hearing, for cause or violation of these bylaws or rules or regulations promulgated pursuant to Section 7.10.

#### **Sec. 7-12. Enforcement and Penalties.**

In addition to any other enforcement or penalty allowed under state law or Town bylaw, including, but not limited to, that provide pursuant to Section 1-4 of these Bylaws violation of this bylaw or any rules and regulations promulgated pursuant thereto, may be enforced by non-criminal disposition, by any police officer in the manner provided by General Laws, Chapter 40, Section 21D and Section 1-4 of these Bylaws. The specific non-criminal disposition penalty which shall apply to a violation of this bylaw shall be as follows:

First offense within a twenty-four month period - \$50.00

Second offense within a twenty-four month period - \$100.00

Third and subsequent offense within a twenty-four month period - \$300.00

Each day a violation continues shall be a separate violation/offense subject to another fine. The enforcement of this bylaw by non-criminal disposition as described herein shall be added to the list of bylaws so enforced and designated in section 1-4A of these Bylaws.

If any provision of this article is held invalid by any court or body of competent jurisdiction, it shall not affect the validity or application of the remainder of the article. (10-23-00, Art. 8)

**Section 7-13. Flea Market.**

No person, firm or corporation, shall operate or conduct a Flea Market on the land under his or its custody, care and control for the sale of products by persons other than by him, his agents or employees, without first obtaining a permit from the Select Board for such undertaking.

Upon receipt of the application as aforesaid, the Select Board shall refer the application to the Police and Fire Departments and the Board of Health for their recommendations relative to the safety of the residents of the Town of Stoneham in the operation of the Flea Market. Such recommendations, together with those of the Select Board, shall be incorporated into and made part of the permit issued. (10-26-81, Art. 18)

**Section 7-14. Automatic amusement devices.**

(a) The Select Board may issue a license, upon the payment of a fee, for the operation of an automatic amusement device, as hereinafter defined, when, in their opinion, the location for such a machine shall not be detrimental to the area.

(b) The issuance of licenses for such machines shall be limited to no more than one per establishment.

(c) No license shall be issued for an automatic amusement device located less than 1,500 feet from a public playground, church or school, as hereinafter defined.

(d) No license shall be issued for an automatic amusement device without the approval of the Chief of Police.

(e) The Select Board, as the licensing authority, may revoke, after a public hearing, any license which, in their opinion, may be a nuisance to the community.

(f) The provisions, as heretofore referred to in Parts b. and c., shall not apply to Fraternal or Veterans Organizations already in existence.

(g) The Select Board shall not grant a license for any automatic amusement device which, based on the totality of evidence, including, but not limited to, evidence submitted by the applicant, obtained as a result of an inspection of the device by the Select Board or their agent(s), or historical data presents a significant risk of misuse as a gaming device. Automatic amusement devices which present a significant risk of misuse as gaming devices include those devices which have one or more of the following features, 1) involves matching random numbers, patterns or cards, 2) accumulates more than twenty-six (26) plays, 3) is equipped with a "knock off" switch, button or similar device, 4) has a mechanism for adjusting the odds, 5) has a remote control feature that can reset the device from another location, 6) is capable of returning money to the player, other than the change for the excess amount put in, 7) permits a player to pay for more than one game at a time, and/or 8) has a metering device that accounts for both money/points in and money/points out.

(h) Each game on an automatic amusement device shall cost exactly the same amount for each player and no player may change any aspect of the game by paying a different amount than any other player before or during the game.

**Definitions.**

*“Automatic amusement device”* shall mean any machine, apparatus, device or mechanism which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball or any other article or device involving in its use either skill or change including but not limited to pinball machines, electronic video games, automatic amusement devices as defined in Chapter 140, Section 177A of the Massachusetts General Laws.

*“School”* shall mean any educational institution, public, private, secular or parochial which offers instruction of high school grade or below and which is accredited by the State Department of Education.

“If any provision of this bylaw is found to be void for any reason whatsoever, said section shall be considered to be severed from such bylaw and the other sections shall remain in full force and effect.” (4-12-82, Art. 15; 5-6-99, Art. 9)

**State law reference** – Automatic Amusement Devices, G.L. c. 140, sec. 177A.

**Editor’s Note** – Warrant article proposing to change the 1,500 foot requirement of paragraph (c) to 100 feet was defeated by a vote of 55 to 56 at October 24, 1994, Special Town Meeting, Article 6.