

Submitted by: Assembly Member Fairclough

Prepared by: Department of Law

For reading: June 27, 2000

CLERK'S OFFICE

APPROVED

Date: 7-25-00

ANCHORAGE, ALASKA

AO NO. 2000- 112

AN ORDINANCE REPEALING ANCHORAGE MUNICIPAL CODE SECTION 10.20.040 REGARDING
SECONDHAND MERCHANTS, AND ENACTING A NEW SECTION 10.20.043 TO LICENSE USED
AUTOMOBILE DISPLAY LOTS AND PROVIDE REPORTING PROCEDURES REGARDING STOLEN
AUTOMOBILES

THE ANCHORAGE ASSEMBLY ORDAINS

Section 1. Anchorage Municipal Code section 10.20.040 is repealed.

Section 2. Anchorage Municipal Code section 10.20.043 is enacted to read as follows

10.20.043. Used Automobile Display Lots.

- A. *License required.* No person may engage in the business of operating a used automobile display lot within the municipality without first obtaining a license from the municipal clerk. A specific location for the lot shall be designated on the license. A separate license must be obtained for each lot within the municipality, even if owned by the same person.
- B. *Qualifications.* The owner, operator, salesperson, or any person employed by a used automobile display lot shall:
1. Be 18 years of age or older; and
 2. Not have been convicted of a crime involving larceny, theft, receiving and concealing stolen property, dealing with illegally obtained property or involving misrepresentation or fraud within five years prior to the date of application or employment.
- C. *Prohibited purchases.* A licensee may not purchase or receive property:
1. From a person under the age of 18 years or from a person 18 years of age or older who has purchased or received the article from a person under 18 years of age for the purpose of selling it;
 2. From a person who is or appears to be under the influence of drugs or intoxicating beverages; or
 3. From a person who cannot provide proof of ownership of the property or if the licensee has knowledge of facts that would create a belief in a reasonable person that the property may have been stolen, embezzled or otherwise illegally obtained.
- D. *Record of transactions.* The Anchorage Police Department may request the licensee to maintain a daily record containing the names and addresses of all persons with whom the licensee transacts business and a complete and accurate description of the items purchased, sold, or submitted on consignment. If requested by the Anchorage Police Department, a weekly report of the recorded information shall be submitted to the chief of police. Any records required to be maintained by this subsection shall be open to inspection by the municipal clerk or the chief of police as permitted under section 10.10.050.
- E. *Definitions.*
1. *Automobile* means a truck, car, van, or sport utility vehicle.
 2. *Used Automobile Display Lot* means any business which has at least ten used

1 automobiles on the premises which it has bought or takes on consignment for sale to
2 the public.
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4 **Section 3.** Section 1 of this ordinance shall become effective immediately upon its approval and passage,
5 with no rebate of any secondhand merchant license fees paid prior to repeal of section 10.20.040. Section
6 2 of this ordinance shall become effective on October 2, 2000, with used automobile display lots required
7 to pay their license fees by that date.
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11 PASSED AND APPROVED by the Anchorage Assembly this 25 day of July, 2000.
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14 Fay Von Hemminger
15 Chair of the Assembly

16 ATTEST:

17 Lepine Ferguson
18 Municipal Clerk
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MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 675-2000

Meeting Date: June 27, 2000

1 **From:** Assembly Member Fairclough

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3 **Subject:** AO 2000-112; AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
4 SECTIONS 7.25.010 AND 10.20.037 TO REDEFINE TERM SECONDHAND
5 MERCHANT REGARDING PROCEDURES FOR NOTIFICATION, DISPOSITION AND
6 DISPOSAL OF STOLEN PROPERTY
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9 This proposed ordinance amends Anchorage Municipal Code sections 7.25.010 and 10.20.037 to redefine
10 the term secondhand merchant concerning the procedures for notification, disposition and disposal of stolen
11 property. The reason for the ordinance is the expected repeal of the secondhand merchant provision of AMC
12 10.20.040 and enactment of a used automobile display lot provision as Anchorage Municipal Code section
13 10.20.043, which is addressed in a separate and simultaneously filed proposed ordinance.
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15 The references to secondhand merchant would generally be changed to "secondhand store(s), antique
16 store(s), auction hall(s), used firearm dealer(s) and used automobile display lot(s)," with the exception of
17 AMC 10.20.037(F) regarding suspension or revocation of a license, which would be applicable to
18 pawnbrokers and used automobile display lots.
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20 The effective date of the new ordinance would be upon approval and passage by the Assembly
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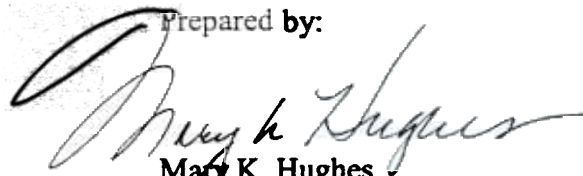
22 No significant public sector economic effects are anticipated.
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27 Respectfully submitted

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31 Anna Fairclough
32 Assembly Member
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Prepared by:


Mary K. Hughes
Municipal Attorney

**MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM
AIM NO. 73-2000**

MEETING DATE: July 18, 2000

FROM: Assemblymember Fairclough

SUBJECT: Repeal of AMC 10.20.040 Secondhand Merchant, Enactment of AMC 10.20.043 Used Automobile Display Lots and Revisions to AMC 7.25.010 and AMC 10.20.037 to Redefine the Term Secondhand Merchant

On February 1, 2000, at 1:00 p.m. a work session was held to discuss the proposed exemption of fire arm dealers that sold used merchandise who were licensed under AMC 10.20.040 Secondhand Merchant. At the workshop several members of the community asked for a review of the Secondhand Merchant Ordinance.

In preparation for this review, the Municipal Business Licensing Clerk researched historical data to determine the original intent and benefit of licensing secondhand merchants and what type of businesses were included. Originally secondhand merchants, pawnbrokers, transient merchants and traders were required to obtain a license. The intent was to safeguard the public against the buying and selling of stolen property within the City of Anchorage.

The current intent and benefit of licensing secondhand merchants was evaluated. This review indicated that over time the original intent and benefit has changed, along with the type of secondhand merchants that are being licensed. Pawnbrokers are now regulated separately by AMC 10.20.025 which includes detailed reporting requirements to safeguard against buying and selling stolen property. Seventy-three percent (73%) of the secondhand merchants today are dealing in used automobiles. The remaining twenty-two percent (22%) sell used books, used furniture, used clothing, used sporting equipment, used appliances, antiques and a few miscellaneous other types of used merchandise. These types of businesses don't present a high public safety issue or do they historically deal in buying/selling stolen property. Therefore, revision of the code at this time seems appropriate.

Public meetings were held on May 11, 2000, at 10:00 a.m., May 26, 2000, at 9:00 a.m. and June 15, 2000, at 4:00 p.m. to discuss public concerns regarding the application of the code and receive suggestions for possible solutions and code revisions. Minutes of

the meetings, a list of the business groups represented and the names of individuals in attendance are available.

Public comments taken at the meetings revealed concern about the equity of the Secondhand Merchant licensing requirements. It seems unfair to assess a \$100 licensing fee only to a small group of often unrelated businesses that sell various types of secondhand goods. The businesses that are categorized as Secondhand Merchants that are required to obtain a license are also a very small portion of the business community.

The verbiage in the current code includes businesses that sell used cars, used books, used furniture, used clothing, used sporting equipment, used appliances, antiques and a few miscellaneous other types of merchandise. But these types of business were included only if the merchandise they carried in their stores was bought and sold within the Municipality of Anchorage (MOA). It is evident that some shops required licensing while others selling the same goods did not need a license, according to the letter of the law, which created a sense of unfairness to the community.

Upon completion of the public meetings, the comments and suggestions were incorporated into a proposed code revision which was reviewed by the municipality's legal department. The goal was to reach an equitable solution while ensuring public safety and maintaining the Anchorage Police Departments jurisdiction if a business is found with stolen merchandise. The proposed revisions will repeal AMC 10.20.040 and replace it with AMC 10.20.043 with a new title "Used Automobile Display Lots. The new verbiage reflects the current intent and applies to the majority of the businesses that are actually being licensed as secondhand merchants in the Municipality of Anchorage today.

The repeal of AMC 10.20.040 Secondhand Merchant will exempt specific retailers from the required license. The new AMC 10.20.043 applies to Used Automobile Display Lots. The revisions to AMC 7.25.010 and AMC 10.20.037 are housekeeping measures to deal with the deletions of the secondhand merchants definition. The substitution for the term secondhand merchant extends the appeal rights of AMC 10.20.037 and AMC 7.25.010 regarding how to claim stolen property.

Respectfully submitted,



Anna Fairclough
Anchorage Assembly

MUNICIPALITY OF ANCHORAGE
ASSEMBLY INFORMATION MEMORANDUM

AIM No. 74-2000

Meeting Date: July 18, 2000

From: Assembly Member Anna Fairclough

Subject: AO 2000-112; AN ORDINANCE REPEALING AND REENACTING ANCHORAGE MUNICIPAL CODE SECTION 10.20.040 TO APPLY TO JUST USED AUTOMOBILE DISPLAY LOTS RATHER THAN SECONDHAND MERCHANTS.

AO 2000-112 would repeal the current version of Anchorage Municipal Code Section 10.20.040 regarding secondhand merchants. For your easy reference, I have attached this current version, which was enacted under AO 2000-26(S-1).

A companion ordinance is also proposed, AO 2000-113, which is a house-keeping measure that redefines the term "secondhand merchant" as used in Anchorage Municipal Code Sections 7.25.010 and 10.20.037, since the definition of "secondhand merchant" would be repealed under AO 2000-112.

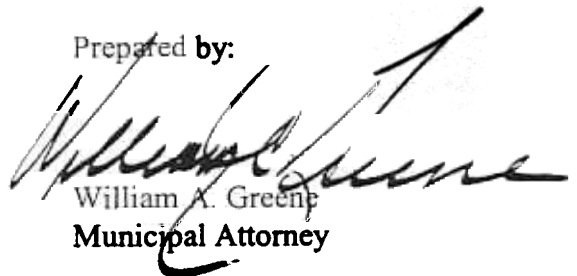
The repeal of the current version of Anchorage Municipal Code Section 10.20.040 is not opposed by the Police Chief, nor does he oppose redefining the term "secondhand merchant" under AO-2000-113.

Respectfully submitted



Anna Fairclough
Assembly Member

Prepared by:



William A. Green
Municipal Attorney

1 CLERK'S OFFICE
2 AMENDED AND APPROVED
3 Date: 2-8-00

Submitted by: Assemblymember KENDALL
Prepared by: Assembly Office
For reading: FEBRUARY 1, 2000

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5 ANCHORAGE, ALASKA
6 AO NO. 2000-26(S-1)
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8 AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
9 ANCHORAGE MUNICIPAL CODE SECTION 10.20.040, EXEMPTING FEDERALLY-
10 LICENSED WHOLESALE AND RETAIL GUN DEALERS FROM THE
11 MUNICIPALITY'S SECONDHAND MERCHANT'S LICENSE REQUIREMENT
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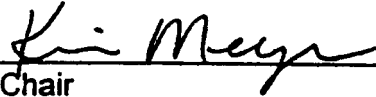
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14 THE ANCHORAGE ASSEMBLY ORDAINS

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16 Section 1: That AMC 10.20.040 A. is amended to read as follows:
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18 *License Required.* No person may do business as a secondhand
19 merchant within the municipality without first obtaining a secondhand merchant's
20 license from the municipal clerk. A specific location for the conduct of the business
21 shall be designated on the license. As used in this section, the term "secondhand
22 merchant" means any person who engages in the regular business of buying used
23 personal property within the municipality for cash, money order or other negotiable
24 instrument, and reselling that property to the public, except for wholesale or retail
25 firearms dealers licensed by the United States Department of Treasury, Bureau of
26 Alcohol, Tobacco, and Firearms, only with respect to the purchase and sale of
27 firearms as defined in the Gun Control Act of 1968, 18 U.S.C. Chapter 44.
28 1968

29 Section 2: That this ordinance shall become effective immediately upon
30 passage and approval.

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32 PASSED AND APPROVED by the Anchorage Assembly this 8th day of
33 February, 2000.
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37 Chair

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39 ATTEST:

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43 Municipal Clerk
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licensee does not waive his or her right to receive notice and no party, including the licensee, submits a claim, the property shall be returned to the licensee after the time prescribed in AS 12.36.030. (AO No. 95-115, § 1, 7-6-95)

10.20.040 Secondhand merchants.

A. *License required.* No person may do business as a secondhand merchant within the municipality without first obtaining a secondhand merchant's license from the municipal clerk. A specific location for the conduct of the business shall be designated on the license. As used in this section, the term "secondhand merchant" means any person who engages in the regular business of buying used personal property within the municipality for cash, money order or other negotiable instrument, and reselling that property to the public.

B. *Qualifications.* A secondhand merchant shall not have been convicted of a crime involving larceny, theft, receiving and concealing stolen property, dealing with illegally obtained property or involving misrepresentation or fraud within five years prior to the date of the application or employment.

C. *Prohibited purchases.* A licensee may not purchase or receive property:

1. From a person under the age of 18 years or from a person 18 years of age or older who has purchased or received the article from a person under 18 years of age for the purpose of selling it.
2. From a person who is or appears to be under the influence of drugs or intoxicating beverages.
3. From a person who cannot provide proof of ownership of the property or if the licensee has knowledge of facts that would create a belief in a reasonable man that the property may have been stolen, embezzled or otherwise illegally obtained.

D. *Record of transactions.* The licensee shall maintain a record by date on forms provided by the police department containing the names and addresses of all persons with whom the licensee transacts business and a complete and accurate

description of the items purchased or sold. A weekly report of the recorded information shall be submitted to the chief of police. The records required by this subsection shall be open to inspection by the municipal clerk or the chief of police as permitted under section 10.10.050.

E. *Holding period for purchased items.* Purchased items other than automobiles may not be resold or entered into stock for a period of 30 days after the items have been reported to the chief of police pursuant to subsection D of this section. As used in this section, the term "purchased items" does not include items obtained from an auctioneer under this title or items obtained through lawful repossession under state or local law.

F. *Duties upon notification that property has been reported stolen.* Upon receipt of written notification by a police officer that the particular item of property in possession of a secondhand merchant has been reported stolen, a secondhand merchant:

1. Is presumed to know or have reason to know, that the item is lost, mislaid, or stolen;
2. May not sell, transfer, or otherwise dispose of the property except upon:
 - a. Expiration of a 60-day period within which a person claiming entitlement to the property may request return of the property and such request is denied the secondhand merchant shall, within 30 days of the denial, request a hearing before the administrative hearing officer pursuant to subsection G.2 of this section and hold the property for disposal in accordance with the hearing officer's order; or
 - b. An order of the administrative hearing officer following a hearing requested under subsection G.2 of this section; and
3. Must take reasonable measures to restore the property to a person entitled to have it.

G. *Reasonable measures.* For the purposes of this section reasonable measures shall be either:

1. Return of the item to the person entitled to have it upon request, accompanied by evidence of ownership, of that person; or

2. Submission of a request for an administrative hearing before the municipal administrative hearing officer to determine who is entitled to have the property. If an item is referred for hearing under this subsection the administrative hearing officer may request copies of police reports relating to the property. Except while the matter is pending on appeal, failure of a secondhand merchant to comply with the orders of the administrative hearing officer shall result in immediate revocation of the secondhand merchant's license.

H. Request for a determination. A request for a determination by the administrative hearing officer under subsection G.2 of this section shall include an assertion by the secondhand merchant that either:

1. The person requesting the property is not entitled to have it;
2. The secondhand merchant has a superior claim to the property; or
3. The secondhand merchant lacks sufficient information to determine whether the person requesting the property is entitled to have it.

I. Failure to return property. Failure of a secondhand merchant to either return the property to the person entitled to have it upon request of that person, or request an administrative hearing within 30 days of denying the request of a person for the property shall result in suspension or revocation of the secondhand merchant's license.

J. Finder's fee, reward, etc. A secondhand merchant is not entitled to a finder's fee or other reward or compensation from the rightful owner of stolen property found in the secondhand merchant's possession unless ordered by the administrative hearing officer upon a finding that it is warranted.

K. Failure to request return of property within time period. If no person requests return of the property within the time period provided in subsection F.2 of this section, the licensee does not have to request a hearing and may sell, transfer, or dispose of the property. For the purposes of an administrative hearing, evidence of ownership

includes, but is not limited to, timely filed complaints or police reports of stolen property; local, state or national police information data bases; documents in possession of the police department; license or property identification numbers; markings on the property; appraisals, photographs, or other similar indicia of ownership.

(CAC 6.20.090; AO No. 78-8A; AO No. 95-177(S), § 3, 10-24-95)

**10.20.045 Itinerant or transient merchant—
License required. (Repealed)**
(AO No. 84-138(S), 1-1-85)

10.20.050 Definitions. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.055 Application for itinerant or transient merchant license. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.060 Bonding of itinerant or transient merchants. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.065 Claim against itinerant or transient merchants. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.070 Claim against bond. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.075 Refund of cash bond. (Repealed)
(AO No. 84-138(S), 1-1-85)

**10.20.080 Itinerant or transient merchants—
Qualifications; discipline; prohibited acts. (Repealed)**
(AO No. 84-138(S), 1-1-85)

10.20.085 Municipal clerk as agent. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.090 Statement required in advertisements. (Repealed)
(AO No. 84-138(S), 1-1-85)

10.20.095 Municipal clerk's records. (Repealed)
(AO No. 84-138(S), 1-1-85)

