

## ORDINANCE NO. 831

### AUTHORIZING THE LICENSING OF THE TRADE OR BUSINESS OF SECOND HAND DEALERS AND ESTABLISHING RULES AND REGULATIONS FOR THE OPERATION OF SECOND HAND DEALERS AND ESTABLISHING AN EFFECTIVE DATE

The Borough of Hollidaysburg Code of Ordinances, Chapter 13, is hereby amended by the addition of this Part 5 thereto.

#### **SECTION 5.01 PURPOSE AND INTENT**

The Council of the Borough of Hollidaysburg finds and declares that the acquisition and sale of used personal property vitally affects the public interest and the public welfare, and that in order to promote the public interest and the public welfare, in order to prevent fraud, impositions and other abuses upon its citizens, in order to protect and preserve the personal property of its citizens, and in order to make difficult the disposal of stolen items or aid in the recovery thereof, it is in the interest of the health, safety and welfare of the citizens to regulate Second Hand Dealers operating in the Borough.

#### **SECTION 5.02 DEFINITIONS**

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number and words of the masculine gender shall include the feminine. The word shall is always mandatory and not merely directory.

**Second Hand Dealer.** For purposes of this Ordinance, a Second Hand Dealer is any person who either wholly or in part, engages in or operates the trade or business of buying or acquiring and/or selling any of the following articles, except from regularly established wholesale dealers or distributors:

1. antiques, precious stones, jewelry, watches, old gold, platinum, silver and all other precious metals;
2. all kinds of bricklayer's, carpenter's mechanic's, blacksmith's, plumber's, electrician's, barber's, tinner's and all other kinds of tools;
3. all kinds of doctor's surgeon's dentist's, undertaker's draftsmen's and all other kinds of instruments;
4. all kinds of electrical, musical, computer, telecommunications, and all other kinds of instruments and equipment, including scales, cash registers, Dictaphones, televisions, communication devices, electronic equipment;
5. all kinds of water, electrical and gas, fixtures, appliances and supplies;
6. all kinds of automobile tools and accessories;
7. all kinds of house and office fixtures, furnishings, and appliances; sporting goods of all kind; bric-a-brac; and firearms of all kinds.

Second hand articles or goods, for the purpose of this act, are any of the articles or goods enumerated above, that are purchased or acquired from anyone except a regularly established wholesale dealer or distributor.

**Person** shall include individual natural person, partnership, joint ventures, associations, corporations or other limited liability entities; or any officers, agents, employees, or any kind of personal representatives of any of the above in any capacity, acting either individually or for any other person either under personal appointment or pursuant to law.

**Record** means a paper, electronic, or other method of storing information.

### **SECTION 5.03 LICENSE REQUIRED**

No person shall engage in a Second Hand Dealer business or occupation within the Borough without first having obtained from the Mayor a license, for which a fee, which shall be for the use of the Borough, shall be charged.

### **SECTION 5.04 ISSUANCE OF ANNUAL LICENSE**

**Date of Payment** All licenses required to engage in the business or occupation of Second Hand Dealer shall be due and payable on or before the first day of March of each year.

### **SECTION 5.05 LICENSE FEE**

The license fee to engage in the business or occupation of Second Hand Dealer shall be Twenty-five Dollars (\$25.00) annually and shall be in the same amount for any part of a year.

### **SECTION 5.06 LICENSE APPLICATION and RENEWAL**

Every person desiring a license under this Part 5 shall make application to the Mayor for such license. The Mayor shall not issue a license under this Part until the applicant has provided the following:

1. Evidence of the identity of the applicant in the form of the person's driver's license, military identification card, passport, student identification card or other form of government issued identification to include the identifying numbers from said form of identification; or
2. If the applicant is not a natural person, proof of the proper establishment of the business entity under the laws of the Commonwealth of Pennsylvania.
3. Every license issued shall be effective for one calendar year only.
4. All licensees shall apply for an annual renewal of said license, and pay an annual fee of Twenty-five Dollars (\$25.00). The renewal license shall be valid until December 31<sup>st</sup> of the year issued.

### **SECTION 5.07 DISPLAY OF LICENSE**

The license required by this Part shall be displayed at all times at the place of business of the Licensee. The License shall only be valid for the conduct of business at the location for which the license was originally issued. In order to transfer a license to a new business location of the Licensee, a transfer fee of Twenty-Five (\$25.00) shall be paid to the Borough. Any move shall be reported to the Hollidaysburg Police Department within fifteen (15) calendar days of said move. No license shall be transferred or assigned by Licensee to any other Person.

### **SECTION 5.08 RECORDS TO BE KEPT**

Each and every Second Hand Dealer shall keep a record legibly written in the English language in which shall be recorded:

1. A full and accurate description of all articles purchased or acquired, including brand names, model number, serial number, inscribed initials, dates, names and any other forms of identification on the article purchased or acquired.
2. The date and time of purchase of each article.
3. The amount of money paid for each article.
4. A description of the person or persons, including such person's, name, age and address from whom the article was purchased or acquired, verified by the person's driver's license, military identification card, passport, student identification card or other form of government issued identification to include the identifying numbers from said form of identification.

## **SECTION 5.09 REPORT TO POLICE**

Every person engaged in the business of a Second Hand Dealer shall, before twelve o'clock noon of every Tuesday, deliver to the Hollidaysburg Borough Police Department, via U.S. mail, facsimile transmission, e-mail, hand-delivery, or any other acceptable communication which results in a written format, a written description of all articles received by that person in the course of that person's Second Hand Dealer business during the business week immediately previous, and a description of the person or persons selling the articles to the Second Hand Dealer, including such person's name, age and address. This information may be submitted on forms provided by the Hollidaysburg Borough Police Department or by providing copies or summaries of the person's own records. In all cases, the records must contain all of the information required in subparagraphs 1, 2, and 4 only of Section 5.08 of this Ordinance.

## **SECTION 5.10 RETENTION OF PURCHASE OR ACQUIRED PROPERTY**

No person engaged in the business of Second Hand Dealer shall sell or dispose of any articles or goods purchased or acquired by the Second Hand Dealer until seven (7) business days have elapsed after the purchase or acquisition of the same.

## **SECTION 5.11 RECORDS RETENTION**

A Second Hand Dealer shall maintain all records required to be kept under this Ordinance for a period of not less than two (2) years. These records shall be available during normal business hours for inspection by authorized law enforcement personnel and inspectors.

## **SECTION 5.12 CONVICTION OF CERTAIN CRIMES**

Any person or licensee convicted of or entering a plea of guilty or nolo contendere shall report same to the Hollidaysburg Police Department within three (3) days of said conviction or plea, and shall immediately surrender the license.

## **SECTION 5.13 LICENSING OF EXISTING BUSINESSES**

All persons currently conducting a Second Hand Dealer business required to be licensed under the provisions of this Ordinance shall be required to be licensed by January 1, 2009. Every license issued shall be effective for one calendar year only.

## **SECTION 5.14 PENALTIES**

All person or licensee who violates any provision of this Part or fails to comply with any provision of this Part shall commit a summary offense. Each day that a person is in violation of this Ordinance shall be a separate offense. Prosecution for every such offense shall be according to the practice provided for in the case of summary conviction. Upon conviction for a violation of any provision of this Ordinance, a person may be sentenced to a fine or not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) payable to the Borough of Hollidaysburg, or to imprisonment for not more than thirty (30) days or both. The foregoing fine is in addition to the license fee which the violator shall be required to pay.

## **SECTION 5.15 SEVERABILITY**

It is the intention of the Borough Council that each separate provision of this Ordinance shall be deemed independent of all other provisions hereby and it is further the intention of the Borough Council that if any provision of this Ordinance shall be declared invalid, all other provisions thereof shall remain valid and enforceable.

**SECTION 5.16 EFFECTIVE DATE**

This ordinance shall become effective on January 1, 2009.

**SECTION 5.17 REPEALER**

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**DULY** adopted by the Council of the Borough of Hollidaysburg this 11<sup>th</sup> day of September, 2008.

(s) John P. Stultz, Jr.

President of Council

ATTEST:

(s) Ann M. Andrews

Secretary

Approved by me this 24<sup>th</sup> day of September, 2008.

(s) Joseph R. Dodson

Mayor

I, Ann M. Andrews, Secretary of the Borough of Hollidaysburg, do hereby certify that the foregoing is Ordinance No. 831 adopted the 11<sup>th</sup> day of September, 2008, and duly advertised in the *Altoona Mirror* on September 4, 2008.

Ann M. Andrews, Secretary