



VILLAGE OF JOHNSON CITY

243 Main St., Johnson City, NY 13790 • 607-798-7861 • www.villageofjc.com

Application for Dealers in Secondhand Goods

A copy of a valid Driver's License, Photo ID Card or Valid Passport must accompany this application.

Name: _____

Height: _____ Weight: _____ Hair Color: _____ Eye Color: _____

Sex: _____ Age: _____ Date of Birth: _____

Driver's License #: _____ State of Issuance: _____

Home Address: _____

Business Name: _____

Business Address: _____

Business Telephone #: _____ Cell#: _____ Work #: _____

Type of Business (i.e.) Firm, Partnership, Association, Corporation, Etc.: _____

- If business is a partnership list the names and address of all partners, both general and limited.
- If business is a corporation or association list the names and addresses of all principal officers.

Is the business permanent or transient? _____

Has the applicant, any partner or any principal officer been convicted of any crime or any violation of any municipal ordinance? _____ If yes, state his/her name, the nature of the offense, and the punishment or penalty: _____

The undersigned, being duly sworn, deposes and says that he/she is the owner/applicant or authorized agent of the owner/applicant and that everything contained in this application is an accurate statement and representation of the proposal.

Sworn to this _____ day of _____, 20____

Signature

VILLAGE USE ONLY

Date Received: _____ Fee: \$50.00 _____ Receipt #: _____

Date Referred to Police: _____ Police Approval: Yes _____ No _____

Police Reviewer – Signature & Title: _____

Zoning Compliance Letter: _____ Certificate From Broome County Sealer of Weights & Measures: _____

Proof of Workman's Compensation Insurance: _____ Proof of NYS Disability Insurance: _____

Approval by Village Clerk: Yes _____ No _____ Date of Issuance: _____ Expiration Date: _____

ARTICLE III of the Code of the Village of Johnson City - Dealers in Secondhand Goods

§ 172-27. License required.

- A. No person, either as principal, agent or employee, shall, within the incorporated limits of the Village of Johnson City, establish, engage in or carry on the business of a dealer in secondhand goods as defined herein, either separately or in connection with some other business, without first having obtained and paid for and having in full force and effect a license as provided by this article.
- B. The fee for licenses issued under this article shall be \$50 per year.

§ 172-28. Definitions. For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

DEALER IN SECONDHAND GOODS -- Any person engaged in the commercial exchange, purchase and/or sale of the following secondhand articles: radios, televisions, household appliances (except for refrigerators, freezers, stoves/ranges, dishwashers and trash compactors), either electrical or mechanical, cameras, bicycles, electronic equipment, office furniture, business machines, jewelry, old gold, silver, platinum or other precious metals, firearms, rifles and shotguns.

PERSON - Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, co-partnership, society or any other organization.

§ 172-29. Application for license.

Any person desiring to procure a license as herein provided shall file with the Village Clerk a verified application upon a blank form prepared by the Village Clerk and furnished by the village. Such application shall contain the following information:

- A. Name, description, date of birth and social security number of the applicant.
- B. Home address of the applicant.
- C. Business address of the applicant.
- D. Telephone number of the business.
- E. Name of the business.
- F. Type of business (i.e., firm, partnership, association, corporation, etc.).
 - (1) If a partnership, names and addresses of all partners, both general and limited.
 - (2) If a corporation or association, names and addresses of all principal officers.
- G. A statement as to whether or not the applicant, any partner or any principal officer has been convicted of any crime, or any violation of any municipal ordinance, the nature of the offense and the punishment or penalty therefore.
- H. A certificate from the sealer of weights and measures of the County of Broome certifying that all weighing and measuring devices to be used by the applicant have been examined and approved pursuant to law.
- I. A statement as to whether the business is permanent or transient. Transient vendors shall be subject to the transient retail merchants tax set forth in Chapter 196 of this Code.
- J. A statement from the Code Enforcement Officer that the location of said business complies with the Zoning Code of the Village of Johnson City.

§ 172-30. Combined secondhand dealers/pawnbrokers prohibited.

It shall be unlawful for any person to operate a combined secondhand dealer/pawnbroker shop pursuant to the provisions of §47 of the General Business Law.

§ 172-31. Issuance of license.

- A. The Village Clerk shall send a copy of the above-mentioned verified application to the Chief of Police of the Village of Johnson City for investigation. The Chief of Police shall report findings, if any, to the Village Clerk within seven business days of the receipt and filing of said application.
- B. Upon receipt of the findings of the Chief of Police, the Village Clerk shall, except as set forth below, issue to the applicant a license as required by § 172-27, signed by the Village Clerk or the Deputy Village Clerk.
- C. Denial of license.

- (1) In accordance with the legislative purpose of this article, no license shall be denied except when the applicant(s) and/or principal(s) of the business have been convicted, in a court of competent jurisdiction, within five years prior to the date of said application, of any of the following:
 - (a) Offenses involving damage to or intrusion upon property.
 - (b) Offenses involving theft.
 - (c) Offenses involving fraud.
 - (d) Felonies against the person involving physical injury.
 - (e) Violations of this chapter.
 - (f) Offenses involving possession of stolen property.
 - (2) However, the denial of a license for any above-enumerated grounds shall be consistent with the provisions of Article 23-A of the New York State Correction Law.
- D. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued.
- E. No license shall be issued to an applicant who does not agree to comply with all local laws, ordinances, rules and regulations of the Village of Johnson City pertaining to the operation of a business or occupation.

§ 172-32. *Appeal from denial of license.*

- A. Any applicant refused a license by the Village Clerk may apply, in writing, within five business days of such refusal, to the Mayor for a hearing on his application before a hearing officer designated by the Mayor. The Mayor may, in his discretion, designate a village officer as permanent hearing officer for appeals under this section, or he may make such designations on an individual basis.
- B. Rejection of an application based upon any of the grounds set forth in § 172-31C(1)(a) through (e) shall create a rebuttable presumption that the applicant is not entitled to receive a license hereunder. Accordingly, the burden of proof shall be upon the applicant in the hearing.
- C. The hearing officer shall explain his denial or approval of the application, in writing, to the Village Clerk and the applicant within five business days of the hearing.
- D. If the hearing officer grants the application, the Village Clerk shall issue the license pursuant to § 172-5 of this Code.

§ 172-33. *Contents of license. All licenses issued pursuant to this article shall state clearly the following information:*

- A. The name and address of the licensee and the fee paid for the license.
- B. The name and address of the business of the license.
- C. The number of the license.
- D. The date of issuance and expiration of the license.

§ 172-34. *Expiration of license.*

All licenses issued under the provisions of this article shall automatically expire on December 31 following the date of issuance of such licenses.

§ 172-35. *Record of licenses.*

It shall be the duty of the Village Clerk to keep a record of all applications and of all licenses granted under the provisions of this article, giving the number and date of each license, the name and residence of the persons licensed, the amount of the license fee paid and the date of revocation of all licenses revoked.

§ 172-36. *Revocation of license.*

- A. The Mayor of the Village of Johnson City may revoke or suspend any license issued under the provisions of this article for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business licensed under this Code.

- (3) Any violation of the provisions of this article.
 - (4) Conviction of the licensee or any principal upon any of the grounds set forth above in § 172-31C(1)(a) through (e) of this article during the term of the license.
 - (5) Conducting the business licensed under this article 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. When a license shall be revoked or suspended, no refund of any unearned portion of the license fee shall be made. The Mayor shall notify the Village Clerk of the revocation or suspension of any license, and the reason or reasons therefore, in writing, shall be served by the Village Clerk upon the licensee personally or by mailing by registered mail a copy of the same to the business address given by the licensee. A copy of such notice shall be filed in the office of the Village Clerk.

§ 172-37. *Appeal from revocation or suspension of license.*

- A. Any licensee whose license has been revoked or suspended by the village may apply in writing to the Mayor, within five business days of receipt of the notice required by § 172-36, for a hearing on such revocation or suspension before a hearing officer to be designated by the Mayor. The Mayor may, in his discretion, designate a village officer as permanent hearing officer for appeals under this section, or he may make such designations on an individual basis.
- B. Such application for a hearing shall stay the effect of any order of revocation or suspension until such time as the administrative appeal has been completed.
- C. Said hearing shall be held within five business days of the receipt of the request by the Mayor.
- D. The hearing officer shall explain his affirmance or reversal of the revocation or suspension of the license, in writing, to the Village Clerk, the Mayor and the licensee within five business days of the hearing.
- E. The hearing officer shall have the power to modify any revocation or suspension upon such terms as are deemed equitable by him under the circumstances. In no event shall the hearing officer have the power to increase any penalty.
- F. Revocation or suspension of a license upon any of the grounds set forth in § 172-36A(1) through (5) shall create a rebuttable presumption that the license was properly revoked or suspended except as provided below in Subsection G. Accordingly, the burden of proof shall be upon the applicant in the hearing.
- G. Any revocation or suspension of a license upon the grounds that the licensee has been convicted of any offense involving the sale and/or possession of stolen property in relation to the place of business for which said license has been issued shall create an irrebuttable presumption that the revocation or suspension was proper, provided that an appropriate certificate of conviction has been entered as part of the record. In such cases, the hearing officer's powers shall be limited to reviewing the penalty as determined by the Mayor.

§ 172-38. *Exhibition of license upon request.*

Every person to whom a license has been granted hereunder, while exercising his license, shall exhibit said license upon request of any individual.

§ 172-39. *Assignment of license prohibited.*

A license issued under the provisions of this article shall not be assignable. Any holder of such a license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall each be guilty of a violation of this article.

§ 172-40. *Issuance of license to minors prohibited; exception.*

No license shall be issued under the provisions of this article to a person under 18 years of age unless the parent or legal guardian of any such minor is a co-applicant with such minor for a license under this article.

§ 172-41. Application after license has been refused or revoked.

No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless the applicant can show that the reason for such rejection no longer exists.

§ 172-42. Regulations applicable to licensees.

- A. Changing place of business. If any licensee shall move his place of business from the place designated in the license, he shall immediately give notice to the Village Clerk and have the same endorsed on. No licensee shall carry on business at any other place than the one designated in the license.
- B. Cooperation with police. It shall be the duty of every licensee to cooperate with the Village of Johnson City Police Department in preventing the sale or exchange of stolen property. If a licensee has reason to believe that an attempt is being made to sell stolen property, he shall notify the Police Department at once.
- C. Lost or stolen property.
 - (1) If any article shall be advertised in the newspaper designated by the village for the publication of legal notices 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 secondhand goods, upon receiving actual written or oral notice of the similarity of the description of such articles, such dealer shall immediately give information relating thereto to the police.
 - (2) No disposition of such articles shall be effected until authorization to do so shall be given to such dealer by the police.
 - (3) A dealer in secondhand goods, when notified by the police that property in his possession is stolen or alleged to be stolen, shall take immediate steps to secure that property, and such items 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 allowing such removal or sale. Whenever practicable, the police shall personally render such notification within 24 hours of the marking of the police stop.
- D. Records of purchases to be kept by licensee.
 - (1) Every dealer in secondhand articles shall keep a bound book of consecutively numbered transactions, in which shall be legibly written in English, at the time of every purchase or receipt of secondhand goods from a person other than a dealer in secondhand goods, the following information:
 - (a) The date of the transaction.
 - (b) The name and address of the person from whom goods are purchased.
 - (c) Proof of identity as prescribed herein. 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 or any state, county, municipality or subdivision thereof or any public agency or department thereof or any public or private employer, which requires and bears the signature of the person to whom it is issued.
 - [2] Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable person to believe to be accurate and reliable, when identification under Subsection D(1)(c)[1] of this section is not available.
 - [3] Proof that the seller is over 16 years of age as required by Subsection F.
 - [4] General description of goods involved in the transaction, including make and model, serial number and any other distinguishing monograms or marks.
 - (2) Every dealer in secondhand goods who receives secondhand articles on consignment shall keep a record, in the above-prescribed book, describing the articles and the name

and description of the person such items are received from as prescribed above in Subsection D(1).

- (3) Such records shall be kept on the business premises of the secondhand dealership or at a place so designated on the duly approved license at all times during normal business hours. Such records shall be open during normal business hours to inspection by members of the Bureau of Police or any person duly authorized in writing by the Chief of Police for such purposes who shall exhibit such written authority to the dealer.
- E. Retention of records. All records to be kept under Subsections A through D, inclusive, shall be kept by the licensee for a period of at least two years from the date said record was made.
- F. Restrictions on purchases from children; exceptions.
- (1) No person licensed under this article shall receive or purchase any goods, chattels, wares or merchandise from any child under the age of 16 years. However, such purchases may be made if said child is accompanied by his or her parent or legal guardian.
 - (2) Said restrictions on children shall not apply to transactions involving the purchase or sale of stamps, currency or coins.
 - (3) It shall be no defense to a prosecution for a violation of this section that, in the transaction upon which the prosecution is based, the child acted as the agent or representative of another or that the defendant dealt with such child as the agent or representative of another.

§ 172-43. Penalties for offenses.

- A. Unlicensed dealers. Any person who, himself, or by his clerk, agent or employee, shall act as a dealer in secondhand goods as herein defined without a license, or who shall violate any of the provisions of this article, or who, having had his license revoked, shall continue to act as a secondhand dealer, shall upon conviction be punished as provided in § 1-15 of this Code.
- B. Violations by licensees. Notwithstanding the provisions of § 1-15 of this Code, any person, duly licensed under this article, who shall not comply with the provisions of § 172-42A through F of this article, entitled "Regulations applicable to licensees," shall be subject to administrative penalties, including revocation or suspension of any such license and/or the commencement of a civil action for a penalty as provided for by § 1-15 of this Code.
- C. Injunctive relief available. In addition to the above-provided penalties and punishment, the Village Board may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with the provisions of this article or to restrain by injunction offenses against this article as provided by § 1-17.