

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/dca. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of August 2017.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER 11: DEALERS IN SECOND-HAND ARTICLES

* § 20-264 Definitions. a. Whenever used in this subchapter, the words "dealer in second-hand articles" shall mean any person who, in any way or as a principal broker or agent:

1. Deals in the purchase or sale of second-hand articles of whatever nature, or
 2. Accepts or receives second-hand articles as returns of merchandise or in exchange for or for credits on any other articles or merchandise, or
 3. Deals in the purchase or sale of any second-hand manufactured article composed wholly or in part of gold, silver, platinum or other metals, or
 4. Deals in the purchase or sale of old gold, silver, platinum or other precious metals, or
 5. Deals in the purchase of articles or things comprised of gold, silver, platinum or other precious metals for the purpose of melting or refining, or
 6. Engages in melting previous metals for the purpose of selling, or
 7. Deals in the purchase or sale of pawnbroker tickets or other evidence of pledged articles, or
 8. Not being a pawnbroker deals in the redemption or sale of pledged articles, or
 9. Deals in the purchase or sale of any used electrical appliance, electronic equipment or component parts.
- b. Nothing contained in this subchapter shall be construed to apply to:
1. Pianos, books, magazines, rugs, tapestries, artists' burlaps, painting, sculpture, drawings, etchings and engravings;
 2. The first purchase or sale in the city of any imported second-hand article;

3. The acceptance or receipt of merchandise which is not second-hand 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 the resale of such merchandise;

4. The acceptance or receipt of second-hand merchandise as a return, trade-in, 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 the first subsequent sale or exchange of such merchandise to any person other than an ultimate consumer;

5. The first sale, at retail of merchandise which has been rebuilt by the manufacturer or vendor originally manufacturing it, or the licensed agents thereof, and sold as factory rebuilt merchandise.

c. 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 city, if any, shall be admissible for the purpose of determining whether or not merchandise is second-hand.

*Editor's Note: There are 2 § 20-264's

* § 20-265 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 the following types of licenses:

A general license which shall authorize the licensee to act as a secondhand dealer with respect to all articles other than secondhand automobiles, within the city during the license period specified in section 20-266 of this subchapter.

A secondhand automobile dealer's license which shall authorize the licensee to act as a secondhand dealer with respect to secondhand automobiles within the city during the license period specified in section 20-266 of this subchapter.

*Editor's Note: There are 2 § 20-265's

* § 20-266 Bonds; fee; term; fingerprinting. a. Each dealer securing a general license shall furnish a bond to the city, with sufficient surety, to be approved by the commissioner in the penal sum of one thousand dollars conditioned for the due observance of the law relating to such dealers.

b. The fee for licenses shall be as follows: for a general license, a biennial fee of three hundred forty dollars; for a second-hand automobile dealer's license, a biennial fee of six hundred dollars.

c. The commissioner shall require that applicants for licenses issued

pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

*Editor's Note: There are 2 § 20-266's

§ 20-266.1 Refusal to issue or renew, or suspension or revocation based on criminal conviction. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

§ 20-267 Report to the police commissioner. Subject to the provisions of section 20-273 of this subchapter, every dealer in second-hand articles, upon being served with a written notice to do so by a member of the police department, shall report to the police commissioner, on blank forms to be furnished by such department, a copy of any of the records required to be kept under section 20-273 of this subchapter, of all goods or articles or any part thereof, purchased, received or sold in the course of his or her business, during the days specified in such notice.

§ 20-268 Restrictions. a. It shall be unlawful for any dealer in second-hand articles to carry on his or her business at any place other

than the one designated in such license.

b. It shall be unlawful for any such dealer to purchase any second-hand goods, or things from any person whom he or she knows to be or has reason to believe is a minor.

c. It shall be unlawful for any person whose principal business is dealing in second-hand articles to purchase any second-hand goods or articles from any person between the hours of 12:00 A.M. and 6:00 A.M.

d. It shall be unlawful for any such dealer to sell or dispose of any articles or things except household furniture, curtains, carpets, stoves, kitchen utensils, office furniture, automobiles, motor and other vehicles, machinery, belting, building materials and barrels, or other articles or things received from a dealer or pawnbroker, or which have been received from persons known to be jewelers, dealers, banking institutions, executors or administrators, until the expiration of fifteen days after such purchase or redemption.

e. All second-hand articles or things purchased for the purpose of melting or refining by persons principally engaged in such business, from persons who are not jewelers or dealers, shall not be sold, refined or melted or disposed of until the expiration of fifteen days after such purchase.

Such items as described in the preceding paragraph shall be kept on the premises described in the license which is required by section 20-265 of this chapter.

f. It shall be unlawful for any person licensed as a dealer in second-hand articles, to be licensed as a pawnbroker. It shall be unlawful for any such dealer to receive any article by way of pledge or pawn, or employ subterfuge for receiving goods as security for the advancement of money; nor shall any sign, device or subterfuge be displayed, used or employed by any such dealer in or about the premises where such business is conducted, which in any way resembles the emblem or sign 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; nor shall there be any sign displayed which is calculated to deceive.

g. (1) All open lots used as places of storage by junk dealers and dealers in second-hand articles, except lots used as places of display by dealers engaged exclusively in the sale of used or second-hand automobiles, shall be enclosed on all sides adjoining any street by a sheet metal or wooden fence which shall be sufficient to obscure such premises from the public view, and at least six feet in height. It shall be unlawful for such dealer to display or exhibit such property or articles on or in front of any such fence. It shall be the duty of such dealer occupying such premises to keep such fence free and clear of all signs, posters, handbills or other forms of advertisement of any sort whatsoever, except that such dealer may display one sign not exceeding twenty-four feet in length by six feet in height on such fence on each

street which such premises shall adjoin, such sign to be used for the purpose of advertising the business of such dealer. The same restrictions shall apply to the owner of such premises in the event that such premises are made available for lease by such owner.

(2) It shall be unlawful to stack or to permit the stacking of any motor vehicles of any kind, or any parts thereof, upon any private property within the city unless such vehicles or parts thereof are completely enclosed within a building, or within an area surrounded by a six foot high fence constructed of sheet metal or wood. When stacked in an open lot such motor vehicles or parts thereof shall be on the interior portion of the lot and the base of such stack shall be a distance of not less than twenty feet from such fence, and the height of such stack shall not exceed twenty feet. There shall be no less than a five hundred foot distance between the area so used and any place of worship, school or other public building.

(3) The commissioner shall cause periodic inspection to be made of the area and must be satisfied that such premises comply with all laws and rules and regulations of the department of buildings, the fire department, the department of transportation, the department of health and mental hygiene, and the department of environmental protection insofar as the same are applicable thereto. For purposes of facilitating the inspection prescribed by this section, the commissioner is authorized to call upon the heads of the above named departments and such departments and their employees shall make such inspections as may be required.

(4) The provisions set forth in paragraph (2) hereof relating to the five hundred foot distance from any place of worship, school or public building, shall not apply to any existing licensed premises.

(h) 1. A person who is licensed as a dealer in secondhand automobiles who sells a secondhand automobile, automobile part or equipment that is identified as having been recalled by the national highway transportation safety administration ("NHTSA"), pursuant to its authority under chapter 301 of title 49 of the United States code, must provide to the purchaser, prior to the execution of the contract for sale, a copy of the recall information for such secondhand automobile, automobile part or equipment, as printed out directly from the NHTSA website, <https://www.nhtsa.gov/recalls>, or any successor to such website. Such disclosure shall be made in writing and that writing must be signed or initialed by the purchaser of the secondhand automobile, automobile part or equipment. Such signed or initialed disclosure shall be maintained by the dealer, in either electronic or paper form, for no less than five years and such disclosure shall be subject to inspection by the commissioner.

(2) Nothing in this subdivision shall supersede any existing city, state or federal law or regulation pertaining to automobile safety or roadworthiness, or prevent the department or any other city, state or federal agency from enforcing any city, state or federal law or regulation pertaining to automobile safety or roadworthiness.¹

¹ Sections 20-268(h)(1) and 20-268(h)(2) are effective on September 27, 2017.

§ 20-269 Automobile wreckers; fires. The occurrence, as reported by the fire commissioner pursuant to subdivision c of section 27-4249 of the code, of more than two fires during any twelve-month period at a location operated for the salvage, dumping or wrecking of automobiles or parts thereof by a person licensed pursuant to this subchapter, shall be considered by the commissioner as prima facie evidence of the existence of a continuous danger to public health and safety and shall be grounds for the suspension or revocation of said license.

§ 20-270 Sign for new and second-hand articles. Every person licensed as a dealer in second-hand articles, who also sells new articles within the licensed premises, shall have a sign of not less than two hundred sixteen square inches with letters thereon not less than two inches in height prominently displayed within the department or area where said articles are sold, informing the public that new articles and second-hand articles are sold within said department or area.

§ 20-271 Labelling of second-hand articles and posting of prices for second-hand automobiles.

a. Every person licensed as a dealer in second-hand articles, who also sells new articles within the licensed premises, shall label all second-hand articles in such manner that the public will be informed that such articles are not new.

b. Every person required to be licensed as a second-hand automobile dealer pursuant to section 20-265 of this subchapter, who sells second-hand automobiles at retail, shall clearly and conspicuously post:

1. the total selling price, which shall include any administrative, service or other fee charged by the second-hand automobile dealer exclusive of all taxes and fees for securing a registration or certificate of title, of each second-hand automobile offered for sale at his or her place of business, by means of a sign on the dashboard of each such automobile or by means of a sign at the point of display of each such automobile; and

2. the total selling price of any add-on product offered for sale by means of a sign at the point of display of the second-hand automobile for which such product is available for purchase or at each location within the dealer's place of business where any such product is offered for sale. Such sign shall inform consumers that the purchase of any add-on product is optional. For purposes of this paragraph, "add-on product" shall mean vehicle service contracts, extended service contracts, prepaid maintenance packages, road service or club membership, theft protection, car alarm, auto immobilizer, vehicle identification number etching, mechanical breakdown, guaranteed auto protection, and credit life, accident or disability insurance.

c. Nothing in this section shall prevent a second-hand automobile dealer from selling a second-hand automobile or an add-on product at a lower

selling price than the price posted pursuant to subdivision b of this section.

d. 1. Any person who violates subdivision b of this section or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than:

(a) five hundred dollars for the first violation;

(b) seven hundred and fifty dollars for the second violation committed within one year of the first violation; and

(c) one thousand dollars for the third or any subsequent violation committed within one year of the first violation.

2. For purposes of assessing penalties in accordance with this subdivision, all violations committed by the same dealer on the same day shall count as one violation.

§ 20-272 Lost or stolen property. a. If any goods or articles shall be advertised in any newspaper printed in the city 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 written or oral notice to do so, such dealer shall give information thereof in writing to the police commissioner.

b. Every dealer in second-hand articles who shall have or receive any goods, or articles lost or stolen, or alleged or supposed to have been lost or stolen, shall exhibit the same, on demand, to the commissioner or departmental inspector, or to any judge of the criminal court, to any police officer, or to any person, duly authorized in writing by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer.

§ 20-273 Record of purchase and sales. a. Subject to the provisions of subdivisions b and c of this section, every dealer in second-hand articles shall keep a written record of transactions that shall be legible and written in English.

At the time of every purchase and at the time of every sale, every dealer in second-hand articles shall enter in such written record a description of every article so purchased or sold, the number or numbers and any monograms, inscription or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monogram, inscription or marks of identification thereon, the name, residence and general description of the person from whom such purchase was made or to whom sold and the day and hour of the purchase or sale.

b. In addition to maintaining written records in accordance with subdivision a of this section, every dealer in second-hand articles that deals in the purchase or sale of any second-hand manufactured article composed wholly or in part of gold, silver, platinum, or other precious metals, or deals in the purchase or sale of any old gold, silver,

platinum or other precious metals, or deals in the purchase of articles or things comprised of gold, silver, platinum or other precious metals for the purpose of melting or refining, or deals in the purchase or sale of used electrical appliances excluding kitchen appliances, or deals in the purchase or sale of any used electronic equipment, computers or component parts of electronic equipment or computers, shall with respect to such transactions create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of purchase or sale. Such electronic record shall be created by the dealer at the time of each transaction and shall include the following information: (i) date, time, and location of transaction; and (ii) an accurate description of each article purchased or sold, including the type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks. Such electronic record may include one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner in furtherance of the purposes of this subchapter.

c. In the case of a dealer in second-hand articles who deals in the purchase or sale of pawnbroker tickets or other evidence of pledged articles or the redemption or sale of pledged articles and who is not subject to the provisions of section 20-277 of this chapter:

1. Every dealer shall at the time of such purchase, sale or redemption, include the following information in the written record kept pursuant to subdivision a of this section:

(i) The name and address of the person who issued such ticket or other evidence;

(ii) The pledge number of such pawn ticket or other evidence;

(iii) The name and address of the pledgor as it appears upon such pawn ticket or other evidence;

(iv) The amount loaned or advanced as it appears on such pawn ticket or other evidence;

(v) The day and hour of such purchase, sale or redemption, as the case may be;

(vi) The name, residence and general description of the person from whom or to whom the redeemed article is purchased or sold, as the case may be;

(vii) The sum paid or received for such pawn ticket or other evidence, or the sum paid or received for the redeemed article or pledge; and

(viii) Such description of a pledged article as appears on such pawn ticket or other evidence and an accurate description of every redeemed pledged article.

2. Every dealer shall with respect to such transactions also create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six

years from the date of purchase or sale. Such electronic record shall be created by the dealer at the time of purchase, sale or redemption and shall include the information specified in subparagraphs (i), (ii), (iv), (v), (vii) and (viii) of paragraph one of this subdivision and one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner in furtherance of the purposes of this subchapter.

d. In the case of a sale or other disposal of a motor vehicle, motor cycle or motor thereof, the dealer in second-hand articles shall, in addition to any other entry required by subdivision a of this section, enter in such permanent record the vehicle identification number of said motor vehicle, motor cycle or motor, the manner in which said motor vehicle, motor cycle or motor was removed from the premises, giving the name, address and date of birth of the person who removes it, the driver's license number of such person and state of issuance if such person possessed a driver's license, the motor vehicle registration number of any vehicle used to tow, remove or transport such motor vehicle, motor cycle or motor, and the destination to which the motor vehicle, motor cycle or motor is being removed.

e. The records required by this section, including any electronic records pursuant to subdivisions b and c, shall be open to the inspection of any police officer, the commissioner or any departmental inspector, judge of the criminal court, or person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer. Such records shall also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, any other applicable state or local law.

f. A dealer in second-hand articles subject to the provisions of subdivisions b or c of this section shall acquire and maintain in good working order the electrical equipment necessary to create and maintain the electronic records required by this section, including but not limited to a computer with internet connection and a digital camera utilizing a file format designated by the police commissioner.

g. Nothing in this section shall be construed to affect or supersede any recordkeeping requirement imposed by or pursuant to any other applicable federal, state or local law.

§ 20-275 Violation. a. Any person who shall violate any of the provisions of this subchapter or any rule or regulation issued thereunder shall be guilty of a class A misdemeanor and upon the first conviction be subject to a fine of at least five hundred dollars and upon any subsequent conviction be subject to a fine of one thousand dollars and/or imprisonment of at least fifteen days; except that any person who violates subdivision h of section 20-268 shall be subject to a fine of: (i) one thousand dollars for the first offense; (ii) one thousand dollars and/or imprisonment of at least fifteen days for any subsequent offense committed within three years of the first offense; and (iii) shall be subject to suspension or revocation of his or her secondhand automobile license at the discretion of the commissioner for any

subsequent violations within such three year period. For purposes of this subdivision, each automobile sold in violation of subdivision h of section 20-268 shall count as a separate offense.²

b. Except as otherwise provided in this subchapter, any person who shall violate any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of section 20-270 or of subdivision a of section 20-271 of this subchapter or any rule or regulation issued thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-270 or of subdivision a of section 20-271 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically, by mail or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 20-275.1. Rules. The commissioner may promulgate such rules as are necessary to carry out the provisions of this subchapter.

² Amendments to Section 20-275(a) are effective on September 27, 2017.

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RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER K: DEALERS IN SECOND-HAND ARTICLES

§2-101 Identification of Persons Who Sell to Second-Hand Dealers.

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.

Only the following shall be deemed acceptable evidence of identity:

(a) Any official document 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 person to whom issued.

(b) Police, fire department and postal department badges containing numbers.

In addition, and in every case, it shall be the duty of every second-hand dealer, to require that every person from whom he purchases an article, sign his name in the presence of the second-hand dealer, compare the signature with the signature on the identifying document and retain on his premises the person's signature together with the number and description of the identifying document.

§2-102 Second-Hand Furniture.

(a) The words "discount," "finance," "credit," or others of similar meaning, shall not be used as part of a firm, trade or corporate name or title unless the licensee is actually engaged in the financing for other firms of installment or other purchases of furniture.

(b) The words "warehouse," "storage," "unclaimed," or others of similar meaning, shall not be used as part of a firm, trade or corporate name or title unless the principal business of the licensee is the actual storage of furniture for hire in a recognized storage warehouse.

(c) The words "railroad," "unclaimed freight," or others of similar meaning, shall not be used as part of a firm, trade or corporate name or title unless the licensee is actually a department of a railroad.

(d) No licensee shall sell or advertise for sale furniture from a private residence under any circumstances, nor shall he be affiliated with, or knowingly provide furniture to, any dealer selling furniture to the public from a private residence.

(e) No licensee shall conduct any sale under the name of "auction sale" unless an auctioneer, duly licensed by the City of New York, is employed to conduct such sale. Such auction sale must be bona fide and without reserve and in all other ways must comply with the laws relating to auctions.

(f) New, used or reconditioned furniture, respectively, must be advertised and sold as such.

(g) The restrictions applying to the use of certain words as part of a firm, trade or corporate name or title of licensees apply equally to the misleading use of the said words in advertising. Licensees will be held to strict accountability for any misleading or false advertising, and the use of such shall be grounds for disciplinary action on the license.

§2-103 **Second-Hand Automobiles.**

(a) Every sale must be evidenced by a bill of sale, receipted invoice, or other evidence of transferring title, which must contain the following information:

(1) Name, motor and serial numbers of car sold.

(2) Year of manufacture as given in the Used Car Guide provided by the National Automobile Dealers Association.

(3) Cash-selling price and/or time selling price, setting forth finance charges and exact method of payment.

(4) Allowance on car traded in, if any, and description by year, make, motor and serial numbers of same.

(5) If a dealer has serviced, repaired or replaced the odometer, such fact must be stated.

(b) No car shall be sold or offered for sale by any dealer on deferred payments except on the security of the car itself. No other property whatever is to be used as collateral. If financed by a finance company recommended by the dealer, the dealer must first acquaint the purchaser with the precise terms which such finance company is entitled by law to charge, including nature of collateral, interest rate, and other charges, if any.

(c) No automobile dealer licensed by this Department shall sell or offer for sale a motor vehicle or motorcycle, the motor or serial number of which shall have been so covered as to be effectually concealed.

(d) In any case where a dealer shall purchase a car from a private person (not a dealer in automobiles) and pay for same in full or in part with notes, postdated checks, or by deferred payments, the failure to meet such payments shall be ground for punishment of the licensee by the imposition of a fine or the suspension or revocation of his license.

(e) Licensees will be held responsible for statements, representations, promises or acts of agents, representatives or salesmen on or away from the premises of the licensee.

(f) No dealer in second-hand automobiles shall request or oblige any purchaser to sign any undertaking unless all the facts are set forth in the said undertaking or agreement before signature and a line shall be drawn from the last word of the undertaking to the signature of the purchaser. No notation made after the drawing of the line above referred to shall be binding upon the purchaser unless initialed by both the purchaser and the dealer.

(g)(1)(i) No dealer shall sell or offer for sale to a person other than another dealer a second-hand automobile unless such second-hand auto mobile has been inspected in accordance with §301 of the Vehicle and Traffic Law and certified in accordance with §417 of the Vehicle and Traffic Law.

(ii) After January 31, 1971, all contracts for sale of second-hand automobiles shall contain the following provisions, in type which is 10 point or larger in scale, on that face of the contract to which the buyer's signature is affixed:

IMPORTANT NOTICE TO BUYER

(A) STATE LAW REQUIRES THAT SELLERS OF SECOND HAND CARS CERTIFY IN WRITING TO THE BUYER THAT EACH CAR IS IN SAFE CONDITION AT THE TIME OF SALE.

(B) THIS CERTIFICATION IS A GUARANTEE THAT THE CAR IS IN SAFE CONDITION AT THE TIME OF SALE.

(C) YOU HAVE A RIGHT TO REQUEST THE DEALER TO REPAIR OR TO PAY IN FULL FOR REPAIRS OF ANY UNSAFE CONDITION IN THE CAR WHICH DOES NOT COMPLY WITH THIS CERTIFICATION.

(D) THIS BUSINESS IS LICENSED BY THE DEPARTMENT OF CONSUMER AFFAIRS, (INSERT THE DEPARTMENT'S CURRENT ADDRESS), COMPLAINT PHONE: (212) (INSERT THE DEPARTMENT'S CURRENT TELEPHONE NUMBER).

(iii) No dealer shall include terms in a contract for sale of a second hand automobile to a buyer other than another dealer which purport to limit the dealer's responsibility under §417 of the Vehicle and Traffic Law or under this regulation. Impermissible limitations shall include, but not be limited to, sale of the automobile "as is," with a disclaimer of warranties, or with a term or terms limiting the dealer's duty to repair, or pay for the repair of, defects existing at the time of sale to a portion of the total cost of parts and labor.

(iv) All applications for licenses as second-hand automobile dealers or for renewals of said licenses to be issued on or after January 31, 1971, shall be submitted with copies of any forms of contracts employed by the applicant at the time of application or which he plans to employ after said application.

(v) After November 1, 1970, each dealer in second-hand automobiles shall display and post conspicuously at his place of business, at all times so as to be readily legible by patrons, a sign or placard not less than 30 inches by 18 inches in dimension with letters thereon not less than 1-inch high stationed thereon, to read as follows:

NOTICE TO OUR CUSTOMERS

(A) STATE LAW REQUIRES THAT SELLERS OF SECOND-HAND CARS CERTIFY IN WRITING TO THE BUYER THAT EACH CAR IS IN SAFE CONDITION AT THE TIME OF SALE.

(B) THIS CERTIFICATION IS A GUARANTEE THAT THE CAR IS IN SAFE CONDITION AT THE TIME OF SALE.

(C) YOU HAVE A RIGHT TO REQUEST THE DEALER TO REPAIR OR TO PAY IN FULL FOR REPAIRS OF ANY UNSAFE CONDITION IN THE CAR WHICH DOES NOT COMPLY WITH HIS CERTIFICATION.

(D) THIS BUSINESS IS LICENSED BY THE DEPARTMENT OF CONSUMER AFFAIRS, (INSERT THE DEPARTMENT'S CURRENT ADDRESS AND CURRENT TELEPHONE NUMBER).

(2) No dealer shall misrepresent the mileage of a used motor vehicle which he is offering for sale or exchange by changing the odometer of a used motor vehicle so as to show a lesser mileage reading than recorded by the instrument; provided, however, that this shall not be construed to prevent the service, repair or replacement of an odometer which, by reason of normal use, wear, or through damage, requires service, repair, or replacement. In the event of service, repair or replacement of the odometer by the dealer, the mileage and reading therein shall be set at zero mileage, after such service, repair or replacement.

(h) In connection with the purchase of a used car, it shall be the duty of every licensed dealer to make a thorough investigation as to the use to which such car has previously been put, and if found to have at any time been used as a public hack or taxicab, such fact shall be duly recorded with all other facts in connection with such purchase and any future purchaser or prospective purchaser of the said car shall be so informed. The dealer shall also include as a part of his investigation and the record to be made by him the last previous registration of the car, regardless of the State in which such previous registration occurred. The dealer shall also keep a record of the odometer reading at the time of purchase by him of a used car.

(i) The selling price of an automobile by a licensed second-hand dealer shall be the price advertised, cited, quoted or marked thereon. It shall include all charges connected with the sale of said automobile and shall be the maximum charge to the purchaser. It shall be a violation of this regulation for any licensee to exact a service charge, house commission or any such like assessment above the selling price of the car.

This regulation shall not affect any charges that may be made by a finance company for financing the purchase of an automobile.

(j) Any licensee who acts as a broker, agent, or for the account of another person, or participates in any way, in the sale of a second-hand automobile, will be held responsible for such sale as if he were the principal. No licensee shall allow or permit any person not licensed as a dealer in second-hand automobiles to sell or offer for sale at or from the licensee's place of business any second-hand automobile, unless such automobile is the property of the licensee.

(k) *Deposits.* (1) No dealer nor any person acting as his agent or employee (hereinafter referred to as the "Dealer") shall accept a deposit unless the following conditions are met:

(i) Said deposit obligates the Dealer to refrain for a specified period of time, from offering for sale to any other person the automobile in relation to which the deposit has been made by the customer; and

(ii) The Dealer has not accepted a prior deposit from any person which is still binding upon the Dealer, unless the Dealer so informs the person from whom he accepts a deposit.

(2) All deposits accepted by a Dealer shall be evidenced by dated receipt stating the following information:

- (i) Description of automobile, including make, color, and year of manufacture;
- (ii) Cash-selling price and/or time selling price, finance charges and method of payment;
- (iii) Allowance on automobile to be traded in, if any;
- (iv) Time during which the option is binding; and
- (v) Whether said deposit is refundable and under what conditions.

(3) Each Dealer in second-hand automobiles shall keep a record of deposits on second-hand automobiles offered for sale. The record shall indicate the date of the receipt of the deposit, the amount, the name and address of the payor, the receipt number, a description of the automobile upon which the deposit has been made, and a statement of the disposition of the deposit at the conclusion of the transaction setting forth whether the deposit has been applied to a sales contract or has been refunded to the payor, or otherwise used.

(4) Failure to keep records in accordance with §§2-103(k)(2) and (3) shall be presumptive evidence that the Dealer has acted in violation of subdivision (a) of the regulation in any case in which a customer of said Dealer alleges that said Dealer has committed such a violation.

(l)(1) Each dealer in second-hand automobiles shall keep complete and accurate records of all income and expenses, all receipts and disbursements, and of the investments made and funds provided to finance the business. The Commissioner may prescribe the accounts and written records to be maintained, and such requirements as may be necessary to permit adequate supervision of the business.

(2) The records must include cash receipts and cash disbursements journal, setting forth all payments in detail and identifying the source of all receipts. All disbursements for the purchase of motor vehicles must be traceable to the police book. Receipts shall be traceable to the supporting sales documents.

(m)(1) Definitions.

- (i) "Public space " means all publicly owned property between the property lines on a street as such property lines are shown on City records including, but not limited to, a park, plaza, roadway, shoulder, tree space, sidewalk or parking space between such property lines.
- (ii) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(2) A dealer in second-hand automobiles must not park, store, display, or leave standing on public space any vehicle it owns, has in its possession, or offers for sale or allow any such vehicle to occupy or encroach on public space in any other manner.

§2-104 Exemption of Not-for-Profit Organizations.

Any not-for-profit organization, as defined in the Internal Revenue Code, 26 USCA, section 501, which deals in second-hand articles, shall be exempt from the provisions of Subchapter 11 of Chapter 2 of Title 20. Exempt dealers in second-hand articles shall maintain adequate proof of their tax status on their business premises. For purposes of this regulation, an Internal Revenue Service tax status determination letter is deemed adequate proof.

§2-105 Labeling of secondhand automobiles and posting of prices for secondhand automobiles

(a) Labeling of Used Automobiles, Products and Parts.

(1) All secondhand automobiles, products and parts sold by licensed secondhand automobile dealers that are not new shall be labeled as such. Easily understood words such as "secondhand," "used," "not new," "demo model," "pre-owned," "refurbished" and "recycled" may be used to indicate that an item is not new.

(b) Total Selling Price Signs.

(1) The total selling price sign required by section 20-271(b)(1) of the administrative code of the city of New York shall be prominently displayed on the dashboard or on the window of the secondhand automobile to which the sign applies, or posted within five feet of the point of display of the secondhand automobile to which the sign applies. If the dashboard or window of the secondhand automobile is not visible to the consumer at eye-level or accessible to the consumer, the sign shall be prominently displayed at the point of display of such automobile.

(2) The total selling price sign shall display the total selling price in lettering that is clear, legible, bold and at least one inch in height. The sign must clearly indicate the automobile to which the total selling price applies.

(3) The total selling price sign shall state, in lettering that is clear, legible and at least one-half as high and one-half as broad as the largest print on the sign, that taxes and fees for securing registration and certificate of title are not included in the total selling price.

(c) Add-On Product Signs.

(1) Secondhand automobile dealers shall list the total selling price of add-on products, as defined in section 20-271(b)(2) of the administrative code of the city of New York, very close to the product description. If multiple add-on products are grouped together on the same sign, each add-on product must be listed separately, one item per line, with the price of the add-on product located to the right of the product description. If add-on products are listed individually, the price of the add-on product must be very close to the product description.

(2) Lettering for the description and the price of the add-on product must be clear, legible and the same size which must be at least one inch in height, unless the sign is posted on each individual vehicle, in which case the lettering must be at least half an inch in height.

(3) Secondhand automobile dealers may list the range of total selling prices for extended warranty products very close to the product description in lieu of a specific price. The range of prices must include the minimum and maximum price for the extended warranty, and must also include the factors that may cause the price to vary, such as the vehicle's make, model, year and mileage.

(4) All signs required by section 20-271(b)(2) of the administrative code of the city of New York shall include the following language in lettering that is clear, legible, bold and capitalized, and at least one-half as high and one-half as broad as the largest print on the sign, but no less than one-quarter inch in height:
"YOU ARE NOT REQUIRED TO BUY ANY ADD-ON PRODUCTS IN ORDER TO PURCHASE A CAR AT THE ADVERTISED PRICE."

(d) The requirements of subdivisions (b) and (c) of this section shall apply to secondhand automobiles dealers that are licensed or required to be licensed.