



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Secondhand Personal Property - Regulations	Number 18-19
Originating Department Department of Police and Office of Consumer Protection	Effective Date

Montgomery County Regulation on **SECONDHAND PERSONAL PROPERTY**

Issued by: County Executive
Regulation 18-19
COMCOR 44A.03.01

Authority: Montgomery County Code (2004) Chapter §§44A-1, 44A-18

Supersedes: Executive Regulation 20-16
Council Review: Method (3) under Code Section 2A-15
Register Vol. 36 No. 5

Effective Date:
Comment Deadline: June 30, 2019

Summary: Changes were made to Chapter 44A, Secondhand Personal Property, by 2019 Laws of Montgomery County, ch. 3 (Bill 40-18). Consequently, amendments need to be made to Executive Regulation 20-16, 50-89 as a result of the changes made in the underlying law. Specifically, it makes clear that firearms are included in the definition of secondhand personal property and also excludes a certain type of business model from the licensing requirements. Additionally, it addresses ministerial or typographical errors.

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Background: The authority to promulgate regulations regarding the exemption of certain types of estate sale companies, and to include firearms in the definition of secondhand personal property, is derived from 2019 Laws of Montgomery County, ch. 3 (Bill 40-18). The exemption of certain types of estate sale companies was specifically requested by business owners. The Montgomery County Police Department requested the inclusion of firearms in the definition of secondhand personal property. The ministerial edits to conform to Chapter 44A-18, as well as to include section headings where needed, was also requested by the Office of Consumer Protection.

COMCOR 44A.03.01 Secondhand Personal Property

44A.03.01.01 Definitions

When used in these regulations:

- (a) Dealer means any person conducting the business of buying, obtaining, acquiring, receiving, or marketing secondhand personal property, including through the internet or another electronic method, and any person engaged as an auctioneer.
- (b) Chief means the Chief of the Department of Police.
- (c) Firearm means a device as defined in MD Code, Public Safety, §5-101(h), as amended.

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

[d] (e) Personal property means radios and other audio equipment; televisions and other video equipment; photographic, optical, and computer equipment; typewriters, calculators and other electronic or electrical home or office appliances, machines or equipment, firearms; bicycles; jewelry; furs; leather goods; watches; paintings; fine or historic china; crystal, glass, or porcelain; object d'art; power tools; carpets and rugs; musical instruments; and any items serialized, marked for personal identification purposes, or engraved.



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[e] (f) Secondhand personal property means previously owned personal property which is offered for sale or as collateral by any person other than the manufacturer, wholesale distributor, or original retail seller acting in the ordinary course of business. It does not include

- i. personal property purchased at a public sale; [It does not include]
- ii. jewelry; furs; leather goods; paintings; fine or historic china; crystal, glass, or porcelain; objects d'art; and carpets and rugs with a resale value of seventy-five dollars or less; or
- iii. items of personal property that do not include a firearm that are offered for sale only on residential property and are:
 - A. owned by a resident of that property; or
 - B. part of the estate of a deceased immediate past resident of that property; or
 - C. items of personal property that have a resale value at or below seventy-five dollars.

(g) Public sale means a sale open to the public and held in a location open and accessible to the public pursuant to public notice of the time and place of the sale.

44A.03.01.02 Secondhand Personal Property Dealer's License

(a) A person must not act as a dealer unless the person possesses a dealer's license issued by the Office of Consumer Protection. The license must be displayed to the public wherever the person conducts the business of a dealer. No individual may work as an officer, employee, or agent engaged in transactions involving Secondhand Personal Property for a person required to be licensed by this chapter unless the dealer possesses a valid and current dealer's license.

(b) Pursuant to Montgomery County Code, Chapter 44A, Section 44A-2 persons engaged in the business of buying, obtaining, acquiring, marketing or receiving secondhand personal property must possess a dealer's license issued by the Office of Consumer Protection. Pursuant to the Montgomery County Code, Chapter 44A, Section



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44A-8(b), the County Executive may establish an annual license fee in an amount not to exceed the estimated costs of administration and enforcement.

(c) Each application for a license must be made on the forms required by the Office of Consumer Protection.

44A.03.01.03 Reporting Forms

(a) Dealers must record and report all transactions on forms issued by the Montgomery County Department of Police. These report forms must comply with Section 44A-3.

(b) Dealers may obtain a supply of the appropriate report forms from any Montgomery County Department of Police District Station or at Police Headquarters, 100 Edison Park Drive, Gaithersburg, Maryland. A fee for these forms may be charged in an amount not to exceed the estimated cost of materials and printing.

(c) Completed transaction forms must be kept on site at the business for one year and open to inspection during this one year period. These reports must be complete, correct, legible and contain all information required in Section 44A- 3.

(d) Dealers shall also record and report all transactions on electronic forms through the electronic reporting system required by the Montgomery County Department of Police.

44A.03.01.04 Inspection by Montgomery County Department of Police

(a) A dealer must permit any officer or authorized representative of the Montgomery County Department of Police, or other police departments having jurisdiction, to examine the books and records required by this chapter; to examine any personal property purchased, obtained, acquired, received or stored at the business location; and to require retention for an additional 30 days beyond the storage period specified in Chapter 44A-4, Section (b) of any property known or believed by the police to be missing or stolen.



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(b) At the request of the licensed dealer, the police officer or authorized representative conducting the inspection must sign a log indicating his name, rank, date, duty assignment, and time of the inspection. A police officer obtaining items of secondhand personal property from the dealer must give the dealer a written receipt specifying the description of the item taken, the officer's name, rank and duty assignment, as well as the date and time of receipt of the item(s).

44A.03.01.05 Storage of Secondhand Personal Property

(a) Items may be stored at other locations in Montgomery County which have been approved by the Chief, Investigative Services Bureau, Montgomery County Department of Police, or his designee.

(b) Auctioneers must not store items of secondhand personal property at locations within Montgomery County, other than their regular business location, without written permission from the Chief, Investigative Services Bureau.

(c) Auctioneers must report acquisitions of all secondhand personal property as required in 44A.03.01.03 of this Executive Regulation, and also must list on the reporting form the location where these items are stored.

(d) Auctioneers are not exempt from any other provisions of Chapter 44A or of this Executive Regulation.

(e) The requirements of 44A-4 subsections (a) and (b) are not applicable to any secondhand personal property which has been inspected and received written clearance for earlier disposition by the Chief, Investigative Services Bureau or his designee. This request for clearance must be made in writing by the dealer to the Chief, Investigative Services Bureau, Montgomery County Department of Police, 100 Edison Park Road, Gaithersburg, Maryland 20878.

44A.03.01.06 Payment by Check or In-Store Credit



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A dealer must pay for the purchase of all secondhand personal property by check or in-store credit, unless the total amount paid does not exceed \$10.00 for each transaction.

44A.03.01.07 Enforcement

If a dealer fails to comply with any section of Chapter 44A, Secondhand Personal Property, or these Executive Regulations:

(a) Montgomery County may obtain restitution from the dealer on behalf of an injured party.

(b) The dealer must be subject to the penalties prescribed in Montgomery County Code, 1984, as amended, Section 44A-[17]18.

(c) After restitution has been ordered by any court having jurisdiction, the dealer has five days, excluding weekends and holidays, to satisfy this order. If not satisfied, the Office of Consumer Protection must afford the dealer an opportunity for a hearing to show cause why his/her license should not be revoked or suspended, in accordance with Section 44A-13.

(d) The hearing officer has the power to revoke, suspend, or refuse to renew the license of any dealer who fails to comply with an order for restitution from any court having jurisdiction.

44A.03.01.08 Reserved

44A.03.01.09 Exemption of Charitable Organizations

(a) Charitable organizations may apply for an exemption to the licensing, holding, recordkeeping, or reporting requirements of this chapter to the Montgomery County Office of Consumer Protection.

(b) The applicant must provide all such records and assistance necessary for determining that the applicant is a bona fide charitable organization entitled to such an exemption.



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(c) Organizations which accept only donated goods are exempt from the licensing, recordkeeping, or reporting requirements of this chapter.

44A.03.01.10 Revision of Regulations

These Regulations are subject to revisions as the need arises and as approved by the County Executive for Montgomery County, Maryland.

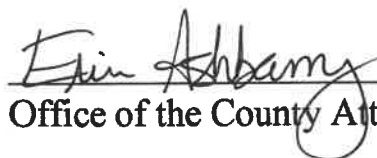
44A.03.01.11 Severability

The provisions of this regulation are severable. If a court holds that a provision is invalid, or inapplicable, the remainder of the regulation remains in effect.

44A.03.01.12 Effective Date

This regulation becomes effective when the County Council receives a copy of the adopted regulation.

Approved as to form and legality

 4/22/19
Office of the County Attorney/Date

Marc Elrich, County Executive



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