

Chapter 34

SECONDHAND GOODS*

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ARTICLE I. IN GENERAL

Sec. 34-1 – 34-15. Reserved.

ARTICLE II. SECONDHAND AND JUNK DEALERS

Sec. 34-16. Secondhand and junk dealers defined.

Any person whose principal business is that of purchasing, selling, exchanging, storing or receiving secondhand articles of any kind, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, lighting and plumbing fixtures, is hereby defined to be a secondhand dealer or junk dealer for the purposes of this article. Provided, however, that, except for heavy processing facilities and recycling facilities in planned unit developments, this article does not apply to recycling facilities which are operating under special land use permits issued pursuant to sections 1501 (20) and 1505 of the 1965 revised zoning ordinance of the City of Benton Harbor, Michigan. (Code 1972, §§ 7.141, 7.142; Ord. of 12-23-91, § 1)

Cross reference – Definitions and rules of construction generally, § 1-2.

State law reference – Similar provisions MCL §§ 445-403, 445.471, MSA §§ 19.713, 19.740(1).

Sec. 34-17. Statement of business title and address to be sent to state police commissioner.

Each secondhand dealer and junk dealer herein shall send to the commissioner of the state police a statement in writing containing the name or title under which such business is operated, owners thereof, street address and city in which such business is located. (Code 1972, § 7.142)

State law reference – Similar provisions, MCL § 445.473, MSA § 19.740(3).

Sec. 34-18. Display of sign.

Secondhand dealers and junk dealers shall post in a conspicuous place in or upon their shop, store, wagon, boat or other place of business, a sign having their name and occupation legibly inscribed thereon. (Code 1972, § 7.141)

State law reference – Similar provisions, MCL § 445.404, MSA § 19.714.

Sec. 34-19. Record of transactions.

Secondhand and junk dealers shall keep a separate book open to inspection by members of the division of police in which shall be written in the English language at the time of the purchase or exchange of such articles, a description thereof, the name, description and residence of the person from whom the same was purchased and received, and the day and hour when such purchase or exchange was made. Each entry shall be numbered consecutively, commencing with number one. (Gen. Code 1946, Ch. 6, §§ 204.5, 207.3; Code 1972, § 7.141)

State law reference – Similar provisions, MCL § 445.404, MSA § 19.714.

Sec. 34-20. Thumbprint of customers required.

At the same time any secondhand dealer or junk dealer shall receive any article of personal property, or other valuable thing, by way of pledge or pawn, or shall acquire or purchase any article of personal property, or other valuable thing, except new articles, wares or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sales to customers, except also motor vehicles, old rags, wastepaper, books, magazines, tapestries, antiques and household furniture, he shall take in duplicate the legible imprint of the right thumb of the person from whom such property was received, or if that be not possible, of the left thumb or some other finger of such person. Such fingerprint shall be taken under such rules and regulations as prescribed by the commissioner of the state police. One copy shall be forwarded within forty-eight (48) hours, together with a statement of the nature of the property received, to the chief of police together with a statement of the nature of the property received. The second copy shall be forwarded within forty-eight (48) hours, together with a statement of the nature of the property received, to the commissioner of the state police. (Code 1972, § 7.142)

State law reference – Similar provisions, MCL § 445.472, MSA § 19.740(2).

Sec. 34.21. Retention of goods purchased, report to police – Required.

Articles purchased or exchanged by secondhand or junk dealers shall be retained by the purchaser thereof for at least fifteen (15) days before disposing of them, in an accessible place in the building where such articles are purchased and received. A tag shall be attached to such articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in such book. Such purchaser shall prepare and deliver on Monday of each week to the chief of police, before 12:00 noon, a legible and correct copy written in the English language from such book, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, and the description of the person from whom it was purchased. Such statement shall be verified by the affidavit of the person subscribing his name thereto. This section shall not apply to old rags, wastepaper and household goods except radios, televisions, record players and electrical appliances. Nothing herein contained shall make it necessary for the purchaser to retain articles purchased from persons having a fixed place of business after such articles shall have been reported. (Code 1972, § 7.141)

Cross reference – Police, Ch. 32.

State law reference – Similar provisions, MCL § 445.405, MSA § 19.715.

Sec. 34-22. Same – Exception for person without place of business.

If the purchaser or receiver, by exchange or otherwise, as described in section 34-17, is a peddler or goes about with a wagon to purchase or obtain by exchange or otherwise, any of such articles, and does not have a place of business in a building, he need not retain such articles for fifteen (15) days before selling them, provided on Monday of each week he files with the chief of police a report showing the place of business of the person to whom such sale was made; a copy of the record required by such section to be kept in a separate book of the articles purchased or received during the preceding week, including a description of such articles sold, to whom sold and his place of business. (Code 1972, § 7.141)

Sec. 34-23. Unlawful purchases at certain hours or from certain persons.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this article from any person between the hours of 9:00 p.m. and 7:00 a.m. nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by the secondhand dealer or junk dealer to be a thief or any associate of thieves or receiver of stolen property or from any person he has reason to suspect of being such. (Gen. Code 1946, Ch. 6, §§ 204.4; 207.2; Code 1972, § 7.141)

State law reference – Similar provisions, MCL §§ 445.407, MSA § 19.717.

Secs. 34-24 – 34-30. Reserved.

DIVISION 2. LICENSE*

Sec. 34-31. Required.

No person shall carry on the business of dealer in secondhand goods or junk dealer in the city without having first obtained, from the mayor, a license subject to the provisions of this article authorizing such person to carry on such business. (Gen. Code 1946, Ch. 6, §§ 204.1, 207.1; Code 1972, § 7.141)

Sec. 34-32. Issuance.

The mayor may from time to time issue under his hand and the official seal on his office to any suitable person a license authorizing such person to carry on the business of a secondhand dealer or junk dealer subject to the provisions of this article. Such license shall designate the particular place in the city where such person shall carry on the business, and no person receiving such license shall carry on the business in any place other than as designated in the license. A license shall not be issued to any person doing, or desiring to do a junk business in any residential community, where sixty-five (65) per cent or more the property owners within a radius of one city block of such junk business, or contemplated junk business, petition the issuing officer not to do so; provided, however, that in case any person shall have no regular place of business, a license shall be issued to such person to carry on the business of secondhand dealer or junk dealer either by horse and wagon, cart, automobile or by pack. (Code 1972, § 7.141)

State law reference – Similar provisions, MCL § 445.402, MSA § 19.712.

Sec. 34-33. Fee.

The fee for a license under this division shall be as prescribed in section 21-24. (Code 1972, § 7.141)

Sec. 34-34. Location restricted.

- (a) No secondhand or junk dealer shall be issued a license under this division for conducting such business on a vacant lot or in a partially enclosed structure unless such property is enclosed with a properly maintained, tight board fence, or other tight fence, at least eight (8) feet above the street grade or, if fence line grade is higher than that of the street, at least eight (8) feet above the fence line grade, and erected in such a manner as to conceal the premises from public view.
- (b) Sales of secondhand goods and junk on residential property shall be conducted in a rear yard area enclosed or fenced so as not to be visible to the public. (Gen. Code 1946, Ch. 6, § 204; Code 1972, § 7.143)

Sec. 34-35. Revocation.

In case any person shall be found guilty of violating any of the provisions of this chapter, the license issued to such person shall be deemed to have been revoked ipso facto, and such person shall not be permitted to carry on such business within this city for a period of one year after such conviction. (Code 1972, § 7.141)

State law reference – Similar provisions, MCL § 445.408, MSA § 19.718.

Secs. 34-36 – 34-46. Reserved.

ARTICLE III. PAWNBROKERS*

DIVISION I. GENERALLY

Sec. 34-47. Defined.

Any person who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, is hereby defined to be a pawnbroker for the purposes of this chapter. (Code 1972, § 7.131)

Cross reference – Definitions and rules of construction generally, § 1-2.

State law reference – Similar provisions, MCL § 446.203, MSA § 19.583.

Sec. 34-48. Statement of business title and location to police commissioner.

Each pawnbroker shall send to the commissioner of the state police a statement in writing containing the name or title under which such business is operated, owners thereof, street address and city in which such business is located. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 445.473, MSA § 19.740(3).

Sec. 34-49. Record of property received; inspection.

Every pawnbroker shall keep a book to be inspected by the chief of police in which shall be written in English, at the time he shall receive any article of personal property, or other valuable thing by way of pledge or pawn, a description of such article, the amount of money loaned thereon, the rate of interest to be paid on such loan, the name, residence and general description of the person from whom, and the day and hour when such property was received; and such book, and the place where such business is carried on, and all articles of property therein, shall be subject to examination at any time by the mayor, city attorney or police officer of the city.

(Gen. Code 1946, Ch. 6, § 205.3; Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.205, MSA § 19.585.

Sec. 34-50. Daily statement to police of property received.

Every pawnbroker shall make daily, except Sunday, a sworn statement of his transactions, describing the goods or pledge received, and setting forth the name, residence and description of the person from whom the goods or pledge were received, to the chief of police. (Code 1972, § 7.131)

Cross reference – Police generally, Ch. 32.

State law reference – Similar provisions, MCL § 446.206, MSA § 19.586.

Sec. 34-51. Right to deal in secondhand property.

No pawnbroker shall purchase any secondhand furniture, metals, clothing or other articles or thing, or sell, dispose of or keep for sale any such secondhand articles or thing, except they have been pawned to him, and are or have been sold at public auction to the highest bidder. Any articles sold to such pawnbroker, upon the understanding that such article is to be purchased from such pawnbroker by the seller thereof, or by any person acting for such seller, shall be deemed to be pawned within the meaning of this section.

(Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.207, MSA § 19.587.

Sec. 34-52. Memorandum of pawn for purchaser.

A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any goods, article or thing, a memorandum or note signed by him, containing the substance of the entry required to be made by him in his book by section 34-50. No charge shall be made or received by any pawnbroker for any such entry, memorandum or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in type as large as that in which the public acts of this state are printed, the following words:

“If interest or charges in excess of three (3) per cent per month, plus storage charges hereinafter provided, are asked or received, this loan is void and of no effect; and the borrower cannot be made to pay back the money loaned or any interest, or any charges or any part thereof, and the pawnbroker loses all right to the possession of the goods, article or thing pawned, and shall surrender the same to the borrower or pawner upon due demand therefor.” (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.208, MSA § 19.588.

Sec. 34-53. Thumbprints of customers required.

At the same time any pawnbroker shall receive any article of personal property, or other valuable thing, by way of pledge or pawn, or shall acquire or purchase any article of personal property, or other valuable thing, except new articles, wares or merchandise purchased at wholesale from manufacturers, wholesale distributors or jobbers for retail sales to customers, except also motor vehicles, old rags, wastepaper, books, magazines, tapestries, antiques and household furniture, he shall take in duplicate the legible imprint of the right thumb of the person from whom such property was received, or if that be not possible, of the left thumb or some other

finger of such person. Such fingerprint shall be taken under such rules and regulations as prescribed by the commissioner of the state police. One copy shall be forwarded within forty-eight (48) hours, together with a statement of the nature of the property received, to the chief of police, together with a statement of the nature of the property received. The second copy shall be forwarded within forty-eight (48) hours, together with a statement of the nature of the property received, to the commissioner of the state police. (Code 1972, § 7.131)
State law reference – Similar provisions, MCL § 445.472, MSA § 19.740(2).

Sec. 34-54. Interest permitted.

A licensed pawnbroker may charge upon any loan a rate of interest not to exceed three (3) per cent per month, except that he is not required to accept any interest less than fifty (50) cents on a single loan. A pawnbroker may also charge fifty (50) cents per month or fraction thereof for the storage of property, except jewelry, after thirty (30) days but for not more than four (4) months, under any single pledge or pawn. No pawnbroker or agent or employee thereof shall make a loan upon any deposit, pawn or pledge at a rate of interest and charge or receive therefor in excess of the amounts provided for in this section. Interest on any loan shall not be payable in advance, and shall be computed on unpaid monthly balances only, but without compounding. A pawnbroker is not entitled to any examination fee or to make any charge in excess of the amounts provided for in this chapter. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.209, MSA § 19.589.

Sec. 34-55. Sale of pawned property at public auction.

No pawnbroker shall sell any pawn or pledge until the same shall have remained six (6) months in his possession, and all such sales shall be at public auction to the highest bidder, and not otherwise. Such sale shall be held under the direction and control of the pawnbroker and in his regularly established place of business. Notice of such sale shall be published for at least six (6) days previous thereto in one of the daily newspapers to be designated by the mayor, published in English. Such notice shall specify the time and place at which such sale is to take place and by whom it is to be conducted, and shall contain the same description of the articles or goods to be sold as was given in the memorandum or note delivered to the pawner under section 34-52 and shall give the number of such memorandum or note. An affidavit of the printer of such paper or of his foreman, or his principal clerk, annexed to a printed copy of such notice taken from the paper in which it was published and specifying the times when and papers in which it was published, shall be filed after the last day of such publication and before the day fixed for such sale with the county clerk. Such affidavit shall be kept in the office of the county clerk as a public document, and open to the inspection of any person. A fee of fifty (50) cents shall be paid by the party filing such affidavit to the county clerk for the filing of the same. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.210, MSA § 19.590.

Sec. 34-56. Redemption before sale.

The borrower, at any time prior to the sale under section 34-55, may pay or tender to the pawnbroker the debt and interest and charges thereon, together with the cost of advertising the sale, if the sale has been advertised. The payment or tender shall reinvest the pawner with the title and right of possession to the property pledged. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.211, MSA § 19.591.

Sec. 34-57. Disposition of sale surplus.

The surplus money, if any, arising from the sale under section 34-55, after deducting the amount of the loan, the interest and charges then due on the same, and the expense of advertising, shall be paid by the pawnbroker to the person who would be entitled to redeem the pledge or pawn if no sale had taken place. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.212, MSA § 19.592.

Sec. 34-58. Defacing of pawned property.

No pawnbroker shall deface, scratch, obliterate, melt, separate or break into parts any particle or thing received by him in pawn or otherwise, or in any manner do, cause or suffer to be done by others, anything which shall destroy or tend to destroy the identity of such article or render the identification thereof more difficult. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.213, MSA § 19.593.

Sec. 34-59. Acceptance of property from certain persons prohibited.

No pawnbroker shall receive any pledge, pawn, articles or thing whatever from any person after receiving from any one of the officers mentioned in section 34-49, or the parent or guardian of any minor or person of unsound mind, written notice that such person is a minor, or is of unsound mind, or neglects all lawful business, or that he habitually spends his time in frequenting houses of ill-fame, gambling houses or tippling houses, or that from drinking gaming, idleness or debauchery of any kind he is squandering his earnings or wasting his estate, or that he is likely to bring himself or family to want, or to render himself or family a public charge, or that he is suspected of thievery. No pawnbroker shall receive any pawn from any person under eighteen (18) years of age. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.214, MSA § 19.594.

Sec. 34-60. Bond for property pawned without owner's consent.

The bond required under this chapter shall be in double the value of the property claimed, with such surety as such court shall approve, and shall be given to the person from whose possession the property was taken, with condition that the obligor so claiming the same will pay all the costs and damages that may be recovered against him by the obligee in any suit brought within ten (10) days from the date of such bond. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.216, MSA § 19.596.

Sec. 34-61. Transaction of business on Sunday prohibited.

No license issued under the provisions of this chapter shall authorize any business to be transacted by pawnbrokers on the first day of the week commonly called Sunday. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.217, MSA § 19.597.

Secs. 34-62 – 34-72. Reserved.

Sec. 34-73. Required.

No person shall carry on the business of pawnbroker in the city without having first obtained from the mayor a license subject to the provisions of this chapter, authorizing such person to carry on such business. (Gen. Code 1946, Ch. 6, § 205.1; Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.201, MSA § 19.581.

Sec. 34-74. Certification of police chief prerequisite to issuance.

No license shall be issued under this article except upon certification of the police chief. (Gen. Code 1946, Ch. 6, § 205.1)

Sec. 34-75. Issuance; term; transfer.

The mayor may from time to time issue under his hand, and the official seal of his office, to any suitable person, a license authorizing such person to carry on the business of a pawnbroker subject to the provisions of this chapter. Such license shall designate the particular place in the city where such person shall carry on such business, and no person receiving such license shall carry on such business in any other place than the one designated in the license. Such license shall be for the period of one year from date of issuance, unless sooner revoked for cause, and shall not be transferable. (Code 1972, § 7.131)

State law reference – Similar provisions, MCL § 446.202, MSA § 19.582.

Sec. 34-76. Fee.

The fee for a license under this article shall be as prescribed under section 21-24. (Code 1972, § 7.131)

Sec. 34-77. Bond prerequisite to issuance.

Licenses under this article shall give a bond to the city in its corporate name, in the penal sum as prescribed in section 21-24, with at least two (2) sureties, to be approved by the city commission conditioned for the faithful performance of the duties and obligations pertaining to the business and for the payment of all costs and damages incurred by any violation of this chapter. If any person shall be aggrieved by the conduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon the judgment, maintain an action in his own name upon the bond of the pawnbroker in any court having jurisdiction of the amount of the judgment remaining unsatisfied. (Gen. Code 1946, Ch. 6, § 205.2; Code 1972, § 7.131)
State law reference – Similar provisions, MCL §§ 446.202, 446.204, MSA §§ 19.582, 19.584.

Sec. 34-78. Revocation.

Upon any conviction of any person doing business as a pawnbroker under the provisions of this chapter, or on conviction of any clerk, agent, servant or employee of any such person, the license of such person shall forthwith be revoked by the mayor and no part of the license fee of such party shall be returned to him, and no further license as a pawnbroker shall be issued to such person for the period of one year from the date of such revocation. (Code 1972, § 7.131)
State law reference – Similar provisions, MCL § 446.219, MSA § 19.599.

Secs. 34-79 – 34-89. Reserved.

ARTICLE IV. RUMMAGE SALES

DIVISION 1. GENERALLY

Sec. 34-90. Defined.

A “rummage sale” is the offering for sale of items of used personal property from a residence, and shall include “patio sales,” “porch sales,” “driveway sales” and “garage sales.”
Cross reference – Definitions and rules of construction generally, § 1-2.

Sec. 34-91. Exceptions.

The provisions of this article shall not apply to or restrict the sale of used personal property by classified ads or by personal, individual transactions by appointment or prior arrangement nor to charity sales and fund raising projects.

Sec. 34-92. Location restricted.

Rummage sales shall be subject to the restrictions of section 34-34 with regards to their location and fencing requirements.

Sec. 34-93. Frequency.

It shall be unlawful for any person to hold or conduct a rummage sale at the same location more often than twice in any calendar year.

Secs. 34-94 – 34-100. Reserved.

DIVISION 2. PERMIT

Sec. 34-101. Required.

It shall be unlawful for any person to hold or conduct a rummage sale within this city without first obtaining a permit therefor.

Sec. 34-102. Application.

Any person desiring to hold or conduct a rummage sale within the city shall make application to the city clerk for a permit to do so.

Sec. 34-103. Issuance restricted.

Permits shall be issued under the provisions of this division only to the occupant of the premises upon which the proposed rummage sale is to be held or conducted.

Sec. 34-104. Fee.

Repealed

Sec. 34-105. Records.

The city clerk shall keep a permanent record of all permits issued under the provisions of this division.

Sec. 34-106. Duration.

No permit issued under the provisions of this division shall be valid for a period of time in excess of three (3) days.

Sec. 34-107. Revocation.

In addition to any fine which may be imposed for the violation of the provisions of this article, the city manager may revoke any permit issued hereunder for such violation.