Code Excerpt – Secondhand Dealer

Chapter 12 – Businesses and Business Licensing

Article I. Licenses

Sec. 12-1. License required.
No person shall engage or be engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of either this code or of state law without first obtaining a license from the city in the manner provided for in this article. Unless stated otherwise, such license is required for each activity detailed in this chapter.

Sec. 12-2. Multiple businesses.
The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

Sec. 12-3. State-licensed businesses.
The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license from the city if such license is required by this chapter.

Sec. 12-4. License year; short-term options.
(a) Unless otherwise provided in this code, all licenses shall be issued for a term of one year, commencing on the first day of the month in which the license is originally issued.
(b) The city clerk may issue short-term or seasonal licenses for certain business activities for a set period and at a prorated fee. Such licenses, time periods and fees shall be established by resolution of the city commission.

Sec. 12-5. Conditions for issuance.
No license or permit required by this code shall be issued to any person who is required to first have a license or permit from the state until such person shall submit evidence of such state license or permit. No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this code applicable to the trade, profession, business or privilege for which application for license is made.

Sec. 12-6. Where certification required.
No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until such certification is made.

Sec. 12-7. Certification from outside entities.
In all cases where the certification of a state or county officer is required prior to the issuance of a license by the city clerk, no license shall be issued until such person shall submit evidence of such certification.

Sec. 12-8. Fees.
Any fees required for any license issued under this chapter shall be established by resolution of the city commission and shall be paid to the office of the city clerk at the time of application. Review and processing of applications will not begin prior to payment.

Sec. 12-9. License renewals.
Unless otherwise provided in this code, an application for renewal of a license shall be considered in the same manner as an original application. However, completed applications, and associated fees, for license renewal shall be submitted to the office of the city clerk at least 30 days prior to the expiration of the existing license. Applications for renewal submitted after the established deadline but before expiration may be subject to an additional late renewal fee as set forth by resolution of the city commission.

Sec. 12-10. Right to issuance.
If the application for any license meets the requirements of this code, said license shall be granted and shall serve as confirmation that the application has met all requirements.

Sec. 12-11. Insurance.
No license shall be issued under this chapter until the applicant is insured in a manner and amount acceptable to the city attorney. Proof of the required insurance shall be provided to the office of the city clerk prior to the granting of said license.

Sec. 12-12. Same - Exempt persons.
No license fee shall be required from any person exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this chapter. The city clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefor.

Sec. 12-13. Exhibition of license.
No licensee shall fail to carry any license issued in accordance with the provisions of this article upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when requested to do so by any city law enforcement officer or by any person representing the issuing authority. No person shall display any expired or otherwise invalid license.

Sec. 12-14. No representation of endorsement.
Under no circumstances shall an individual represent the granting of a license under this chapter as an endorsement by the city.

Sec. 12-15. Non-transferability.
No license issued under the provisions of this chapter shall be transferable. No shall transfer or attempt to transfer his license to another nor shall he make any improper use of the same. Any attempt by a licensee to transfer his license to another, or use the same improperly, shall be void and result in the automatic revocation of such license.

Sec. 12-16:12-19. Reserved.

Article II. Application

Sec. 12-20. Application required.
Unless otherwise provided in this chapter, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for said license to the city clerk upon forms provided by the city clerk and shall state under oath or affirmation such facts as may be required for, or applicable to, the granting of such license.

Sec. 12-21. Administrative review.

(a) An application for a license issued pursuant to this chapter shall be reviewed as follows, and shall not be issued until the office of the city clerk has received confirmation that the application has satisfied all requirements:
    (1) The city police chief or designee shall investigate the applicant as necessary to satisfy himself that there are no outstanding criminal charges against the applicant and that the business to be conducted is not intended to cheat or defraud the public.
    (2) The city treasurer or designee shall determine if the applicant owes to the city any taxes or other default, and if no such default exists, shall so indicate his findings. A license shall not be issued where default is reported.
    (3) The city planner or zoning official shall determine if the application is in compliance with the regulations of the City of Marquette Land Development Code, Chapter 54 of the City Code. A license shall not be issued where noncompliance issues exist.
    (4) The fire chief or designee shall make a determination as to the habitability and safety of the structure and property to be used for such business, and shall verify the safety and legality of all fireworks sales. In all cases where the certification of the fire chief is required prior to the issuance of any license, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the state and of the city.
    (5) Additional reviews as otherwise required by this chapter.

Sec. 12-22. Application requirements.

(a) Each application for a license issued pursuant to this chapter shall include:
    (1) Name, address and contact information for the applicant.
    (2) Name, address, contact information and copy of current government-issued identification for the owner or manager of the business.
    (3) Any additional information as required by this chapter or by the city clerk.

Sec. 12-23. Online application and payment.
Application submissions and fee payments for licenses required by this chapter may be made electronically in a manner prescribed by the city clerk.

Sec. 12-24:12-27. Reserved.

State Law Excerpt – Secondhand Dealer

SECONDHAND DEALERS AND JUNK DEALERS (EXCERPT)
Act 350 of 1917

445.401 Second hand or junk dealer; license required; automated recycling kiosk; internet drop-off store exempt from licensure; articles of scrap metal; compliance required.

Sec. 1.

(1) A person shall not carry on the business of a second hand dealer or junk dealer in a county, city, or village in this state without first obtaining, from the mayor of the city or the chief executive officer of the county or village where the business is to be carried on, a license under this act authorizing that person to carry on that business. If a second hand dealer uses an automated recycling kiosk to receive articles, the dealer must obtain a license under this section in the city, county, or village in which the kiosk is installed.

(2) This section does not require an internet drop-off store that complies with subsection (3), or an individual who is engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(3) An internet drop-off store that meets all of the following conditions is exempt from licensure as a second hand dealer or junk dealer under this act:

(a) The internet drop-off store has a fixed place of business in this state except that it exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) The internet drop-off store has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, and the website is searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) The internet drop-off store maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, and those records contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) The internet drop-off store provides the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local law enforcement agency, the internet drop-off store provides an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The internet drop-off store shall provide the information in a format that is acceptable to the local law

enforcement agency but the information shall at least be in a legible format and in the English language.

(f) The internet drop-off store requires that payment for the personal property or other valuable thing is made by means of a check or through an electronic payment system; that the payment is not made in cash; and that payment is not made to the seller until the item is sold.

(g) The internet drop-off store immediately removes the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.

(4) This section does not exempt a person that is purchasing or selling articles of scrap metal, as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, from complying with that act.

445.402 Second hand or junk dealer; license, issuance; terms; transferability; fee; inspection.

Sec. 2.

(1) The mayor of a city or chief executive officer of a county or village may grant a license to a person that authorizes that person to carry on the business of a second hand dealer or junk dealer in that city, county, or village, subject to the provisions of this act. For purposes of this subsection, a second hand dealer that uses an automated recycling kiosk to receive articles is considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk is installed.

(2) A license granted under this section must designate the particular place where the person shall carry on the business of a second hand dealer or junk dealer. The person must conduct that business only in the place designated in the license.

(3) The term of a license granted under this section is 1 year from date of issuance unless sooner revoked for cause. The license is not transferable. The legislative body of any city, or the trustees and chief executive officer of any county or village, shall establish the fee for processing and issuing a license in accordance with its charter or local ordinance, based on the cost of issuance and administration of that license.

(4) The city, village, or county may inspect the premises of a licensed second hand dealer or junk dealer during normal business hours. As used in this subsection, "premises" includes the place where an automated recycling kiosk is installed.

445.403 Definitions.

Sec. 3.

As used in this act:

(a) "Automated recycling kiosk" means an interactive device that meets all of the following:

(i) Is installed in a secure retail space.

(ii) Has the following technological functions:

(A) Verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation.

(B) Secure storage of items accepted by the kiosk for recycling.

(C) Capture and storage of images of the seller and the article purchased during the transaction.

(D) Electronic reporting of all transactions to law enforcement.

(b) "Automotive recycler" means a person that engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.

(c) "Industrial scrap" means materials that are a direct product or by-product of any form of manufacturing, shaping, or cutting process from a person whose principal business is the manufacturing, shaping, or cutting of materials at a fixed place of business.

(d) "Internet drop-off store" means a person that contracts with other persons to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(e) "Local law enforcement agency" means the police agency of the city, village, or township, or if none, the county sheriff of the county, in which a second hand dealer, junk dealer, or internet drop-off store conducts business.

(f) "Person" means an individual, corporation, limited liability company, partnership, or other legal entity.

(g) "Scrap processor" means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or glass, into prepared grades of products suitable for consumption by recycling mills, foundries, and other scrap processors.

(h) "Second hand dealer" or "junk dealer" means a person whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Second hand dealer includes a person that is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk. Second hand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

445.404 Second hand or junk dealer; sign; prerequisites; record; inspection.

Sec. 4.

(1) A second hand dealer or junk dealer shall post in a conspicuous place in or on its place of business a sign that states its name and occupation.

(2) A second hand dealer or junk dealer shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of a local law enforcement agency and the Michigan state police, in which the dealer writes or enters in the English language at the time of the purchase or exchange of any article, all of the following:

(a) A description of the article.

(b) The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the individual from whom the article is purchased and received. The second hand dealer or junk dealer shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.

(c) The day and hour the purchase or exchange is made.

(d) The location from which the item is obtained.

(e) Subject to subsection (3), the method of payment.

(3) A second hand dealer or junk dealer must pay for an item by check or by an electronic payment system, except that if payment is made by an automated recycling kiosk, the second hand dealer may pay cash for the item.

445.405 Second hand or junk dealer; articles purchased or exchanged; retention; retention automated recycling kiosk; tagging; record; requirements; exceptions.

Sec. 5.

(1) Except as provided in subsection (2), a second hand dealer or junk dealer shall retain each article it purchases or receives in exchange for at least 15 days before disposing of it, in an accessible place in the building where the article is purchased and received. The dealer shall attach a tag to the article in a visible and convenient place, and write on the tag the number that corresponds with the entry number in the book or other record.

(2) A second hand dealer that operates an automated recycling kiosk may store articles acquired at the kiosk in a secure off-site location. A dealer must retain an article stored under this subsection for 30 days, and upon request return that article to a law enforcement officer of this state without cost.

(3) A second hand dealer or junk dealer shall prepare and deliver on Monday of each week to the local law enforcement agency of the local unit of government in which the dealer's business is carried on, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, that contains a description of each article purchased or received in exchange during the preceding week, the hour and day when the purchase or exchange was made, a description of the individual from whom it was purchased or received in exchange, and a copy of the documentation required under section 4 concerning the individual from whom it was purchased or received in exchange. The statement shall be verified in a manner acceptable to the chief of police or chief law enforcement officer of the local law enforcement agency.

(4) This section does not apply to old rags, waste paper, and household goods except radios, televisions, record players, and electrical appliances and does not require a second hand dealer or junk dealer to retain articles purchased from a person that has a fixed place of business after those articles are reported under subsection (3).

445.407 Second hand or junk dealer; unlawful purchases.

Sec. 7.

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this act from any person between the hours of 9 p.m. and 7 a.m., nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by said second hand 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.