

STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK

ORDINANCE #03-2014

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; REPEALING CHAPTER 32, PRECIOUS METALS AND GEM DEALERS, IN ITS ENTIRETY, AND ARTICLE II, SECONDHAND OR JUNK DEALERS, AND ARTICLE III, PAWNBROKERS, OF CHAPTER 36, SECONDHAND GOODS, AND READOPTING A NEW ARTICLE II, PAWNBROKERS, SECONDHAND DEALERS AND SCRAP DEALERS OF CHAPTER 36, SECONDHAND GOODS, TO PROVIDE FOR ADDITIONAL REGULATIONS RELATING TO PAWNBROKERS AND DEALERS IN SECONDHAND GOODS.

The City of Allen Park Ordains:

SECTION 1. Amendment to Code.

That Chapter 32, Precious Metals and Gem Dealers, in its entirety, and Article II, Secondhand or Junk Dealers, and Article III, Pawnbrokers, of Chapter 36, Secondhand Goods, are hereby repealed and readopted to hereafter read as follows:

Chapter 36, Secondhand Goods
Article II, Pawnbrokers, Secondhand Dealers and Scrap Dealers

Sec. 36-19. - Definitions.

The following words, terms, and phrases, when used in this chapter shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

"Chief Executive Officer" means for a city, the mayor, pursuant to MCL 446.203(a) (i).

"Pawnbroker" means a person, corporation, member or members of a partnership, company or firm who lends 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.

"Scrap processor" means any person or entity whose business is, in whole or in part, the dismantling, wrecking and disposing of junk and/or refuse materials, including automobiles, or otherwise reclaiming metals for reuse.

"Scrap yard" means a place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, packed, disassembled or handled, including wrecked motor vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are deteriorated or obsolete so as to make unusable in their existing condition.

"Secondhand dealer" means any person, corporation, member or members of a partnership, company or firm, that engages in the business of purchasing, storing, selling, exchanging and receiving second hand goods of any kind, including the receiving and selling of goods on consignment, but does not include scrap processor, automotive recycler, or junkyard that deals principally in industrial scrap, nor to retail merchants who repossess their own merchandise sold on title-retaining contract or who accepts merchandise as part payment on new sale, nor shall it apply to licensed automobile dealers, nor to persons who conduct rummage sales provided that such sales are not conducted by the same person or at the same location for a period in excess of three days or more than twice per calendar year, nor to sellers of new articles, wares, or merchandise from manufacturers, wholesale distributors or jobbers for retail sale to customers, nor persons, firms, or corporations whose principle business is that of dealing in new goods, articles and merchandise.

"Secondhand goods" means any goods, wares, merchandise or other personal property acquired or purchased after having been acquired at retail and used by another except as excluded herein. Such term includes, but limited to, appliances, radios, stereos, and speakers, televisions, video equipment, electronic/computer equipment and devices, computer gaming equipment, tools, auto parts, firearms, coins, sports memorabilia, jewelry, precious metals, musical instruments, sporting equipment, bicycles, lawn equipment, snow blowers, and other household equipment, lead pipes, tools, lighting fixtures, plumbing fixtures, watches, precious stones, musical instruments, and electrical appliances.

"Used vehicle sales" shall remain regulated subject to Chapter 34, Article III of the City's Code of Ordinances.

Sec. 36-20. - Pawnbrokers, Secondhand Dealers and Scrap Dealers.

The City is designated and authorized to issue, suspend, and revoke licenses for persons, corporations, partnerships, companies or firms to carry on the business of a pawnbroker or a secondhand dealer pursuant to both 1917 PA 273, as amended, MCL 446.201 et seq., ("the

Pawnbrokers Act") and 1917 PA 350, as amended, MCL 445.401 et seq., ("the Secondhand Dealers Act"), respectively.

Sec. 36-21. - License Required.

No person, corporation, partnership, company or firm, or other entity located in the City shall carry on the business of a scrap dealer, a pawnbroker or secondhand dealer in the City without, to the extent applicable, being licensed pursuant to the Pawnbrokers Act and Secondhand Dealers Act and this section and as approved under this article. A scrap dealer, a secondhand dealer or a pawnbroker's license is not transferable.

(a) The City may not issue a license for a pawnbroker, secondhand dealer or scrap dealer when the City's issuance of such a license exceeds 2, respectively.

(b) The City may not issue a license for a pawnbroker, secondhand dealer or scrap dealer when the City's issuance of such a license exceeds 2, respectively, and unless a license fee is assessed pursuant to MCL 446.202(5) which provides a governmental unit may fix the amount to be paid as the annual license fee at any amount not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00).

(c) Prior to issuance of any license, pawnbrokers, secondhand dealers or scrap dealers shall file a bond in the penal sum of one thousand dollars (\$1,000) conditioned that such applicant will, to the extent applicable, in all respects faithfully comply with and observe all the requirements of the Pawnbrokers and Secondhand Dealer Acts of 1917.

(d) All applicants, prior to the issuance of the license shall affirm that such applicant will in all respects faithfully comply with and observe all the applicable Federal, State, and local laws and regulations, including Act 350 of the Public Acts of 1917, and faithfully perform the duties and obligations of the business, including compliance with the provisions of the City of Allen Park Charter, Code of Ordinances, and this article.

(e) A moratorium of issuance shall be in effect subsequent to the issuance of the allotted number of licenses allowed under this article for pawnbrokers, secondhand dealers and scrap dealers, respectively.

Sec. 36-22. - Posting License, Name of Licensee.

(a) All persons obtaining a license issued under this article shall place two copies of the license as follows; one in the establishments' window or door for public view, and the other placed conspicuously inside the store for full view by patrons.

(b) In addition to the conspicuous display of two licenses of any license issued as required above, a licensee under this chapter shall post conspicuously in the designated places of business a sign reading his or her name and occupation legibly inscribed thereon in letters at a minimum of two and one-half inches to a maximum of four inches in height.

Sec. 36-23. - Grounds for Denial.

(a) The City Administrator and City Clerk may deny an application for a pawnbroker's, secondhand dealer or scrap dealer license if the application is disapproved by one or more officers of the City as provided in this article, indicating that the applicant is unable to meet or continue to meet the requirements of the Pawnbroker's Act and Secondhand Dealer's Act or any provision of this article.

(b) The City Administrator and City Clerk may also deny an application for any reason identified in this article.

(c) If the City Administrator or City Clerk denies the issuance of a license or a renewal thereof, a notice of denial including the reasons for the denial shall be mailed by first class mail to the applicant. If the application for a license has been denied, the applicant may appeal the denial by requesting a hearing pursuant to Section 36-37 or may reapply at any time submitting a new application and fee. The notice of denial shall provide that if the applicant wants to appeal the decision, the applicant must request a hearing within fourteen days pursuant to Section 36-37.

Sec. 36-24. - Investigation by Chief of Police.

The application for a license with a term no longer than one year from the date of the issuance shall be referred by the City Clerk to the Chief of Police for approval, who shall obtain fingerprints from the applicant. The Chief of Police shall conduct an investigation and file a report with the City Administrator.

Sec. 36-25. - License Fee and Posting.

The fees for the processing and issuing a license under this article shall be those fees on file with the City Clerk which have been approved by the City Council. If the application is rejected, a portion of the fee paid, as determined by the City Administrator, may be retained by the City to cover processing costs.

Sec. 36-26. - Prohibitions for Secondhand and Scrap Dealers.

No secondhand or scrap dealer shall loan money on deposit, or pledge of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, without obtaining a pawnbroker's license pursuant to the Pawnbroker's Act and this article.

Sec. 36-27. - Application for License.

(a) Application for a pawnbroker, secondhand dealer or scrap dealer's license shall be made in writing to the City Clerk, who is authorized to create application forms and to receive and process applications, and to thereafter grant, deny, suspend, or revoke said license as set forth in this article. Applications shall be on forms supplied by and to be filed with the City Clerk. Such applications shall be signed and dated by the applicant. The application shall contain the following minimum information, plus any other information deemed necessary by the City Administrator:

- (1) The name and any alias used, address, and telephone number of the applicant and all employees, officers, partners or agents of the applicant.
- (2) The location and description where the business is to be carried on plus any subsidiary offices and a detailed description of items being sold.
- (3) The applicant's criminal record, if any, and if the applicant is not an individual, the criminal record, if any, of the partners, members or officers of the entity.
- (4) The criminal record, if any, of any employees of the applicant.
- (5) The applicant's prior experience as a pawnbroker or secondhand dealer, depending on the license and store.
- (6) An authorization for the Chief of Police to carry out a background investigation on the applicant and all employees, officers, partners, members or agents of the applicant.

(7) A statement as to whether the applicant has ever had a license required by the City or any other governmental entity revoked, suspended, or denied and the reasons for said actions.

(8) A statement that the information provided is true and accurate and that, if a license is granted, the applicant will abide by all applicable ordinances, general laws, charters, rules, and statutes.

(b) All licenses are subject to the following conditions, which shall be noted on the application form:

(1) The applicant shall permit inspection of the licensed premises and/or activity at reasonable times by any authorized representative of the City.

(2) The applicant shall not engage in the business of a pawnbroker or secondhand dealer at any time after the license has expired, without having been reissued, or at any time when the license is suspended or revoked.

(3) No license shall be issued or renewed unless and until the applicant and any and all employees, officers, partners, members or agents of the applicant shall, if deemed necessary by the Chief of Police, submit to being fingerprinted and photographed as part of the background investigation.

(c) The City Clerk shall issue a license to the applicant if the City Administrator is satisfied that the applicant has met the requirements of this article and all applicable laws and the applicant has paid the license fee.

Sec. 36-28. - Hours of Operation; Purchases from Certain Persons Prohibited.

(a) No pawnbroker, secondhand dealer or scrap dealer shall purchase or receive, by sale, barter, or exchange or otherwise, an article under a license issued pursuant to this article from any person between the hours of 9:00 p.m. to 8:00 a.m. or otherwise permitted by law. Further, no person shall purchase or receive such an article from any of the following:

(1) A person who is at the time intoxicated or visibly under the influence of alcohol or narcotics.

(2) A person known by the dealer to be a thief or an associate of thieves, a prior recipient of stolen property, or any person the licensee or employee has reason to suspect of being such.

(3) A minor under the age of eighteen years without written consent of the parent or guardian of such minor.

(b) No person shall purchase or receive, by sale, barter or exchange or otherwise, any article or item that person knows to be stolen, reasonably should have been known to be stolen, or suspects as having been stolen except as specifically authorized by law enforcement authorities.

Sec. 36-29. - Scrap Yard Regulations.

The following regulations shall be applicable to scrap yards:

(a) No scrap yard processor or any of the processor's employees shall receive in the line of such business any article by way of pledge or pawn nor loan or advance any sum of money on the security of any article or thing.

(b) Every scrap yard processor shall upon demand, exhibit all goods which he has on hand and give a description of persons selling the same to any member of the Police Department upon request, and shall keep a book containing the names from whom he purchased brass, tin, copper, aluminum, or any metal except old iron, which book shall be open during business hours to the inspection of any police officer.

(c) No scrap processor shall sell or remove from his place of business any article purchased by him until the same shall have been in his possession for seventy-two hours unless such article shall have been purchased directly from some reputable factory or company.

(d) No scrap yard may store or handle hazardous materials unless done so consistent with all other State, Federal, and local regulations.

(e) A scrap yard is subject to annual administrative inspections or complaint based inspections to ensure the property is maintained in accordance with the health, safety, and welfare of the community, materials are stored in an orderly manner to allow access to inspect, and that the property otherwise complies with the City Code.

(f) Upon conviction of any scrap processor for violating or failing to comply with any provision of this article, the license of such scrap processor shall be revoked and the convicted person(s) shall not be licensed as a scrap processor for a period of two years

from the date of conviction, and the scrap yard shall not be licensed for that particular business for a period of one year from the date of the conviction of the scrap processor.

Sec. 36-30. - Nonferrous Metals.

Nothing in this article should be construed to diminish the requirements that scrap processors and junkyard operators who deal with nonferrous metals must comply with the Nonferrous Metals Act, being 2008 PA 429, as amended, MCL 445.421, et seq.

Sec. 36-31. - Thumbprints and Identification of Customers.

(a) Whenever a licensee or employee of licensee under this article purchases or receives any article or valuable thing as described in Section 36-19 the licensee shall first take on a form approved by the Chief of Police, a legible print of the thumb of the right hand of the person from whom such article was received. If such a person has no right thumb, the licensee shall take the legible print of the thumb on the left hand or of a finger, which shall be so identified in writing by the licensee.

(b) The seller must provide the secondhand dealer with personal identification at the time of the transaction, in the form of a valid operator's license or a Federal or State identification card which includes a photograph that positively matches the seller. The licensee shall obtain and maintain a copy of the identification.

Sec. 36-32. - Records and Reporting Requirements.

(a) A licensee shall keep a permanent record in which shall be written, in the English language, at the time of purchase, exchange or other receipt of any article, a complete and accurate description thereof. Such description shall include an electronic photograph of the article, the article's trade name and serial number, if any; the name, residence and a copy of the Federal or State-issued identification/operator's license of the person from whom the article was purchased or received; and the day and hour when such purchase or exchange was made and such other matters required by law. Each entry in such record shall be numbered consecutively. A member of the Police Department, Sheriff's Department, State Police, or other authorized person is entitled to inspect the premises and records of a licensee during all normal business hours.

(b) A tag shall be attached to each article purchased, exchanged, or received by the licensee in some visible and convenient place, with a number written thereupon to

correspond with the entry number in the record required in subsection (a), until the article is sold or otherwise disposed of. The licensee shall promptly prepare from such record a legible and correct copy, on forms approved by the Chief of Police or City Administrator and written in the English language, containing a description of each article purchased or received during the preceding day, the hour and day when the purchase, exchange, or receipt was made, and the description of the person from whom it was purchased, exchanged or received. Such statement shall be verified by the affidavit of the licensee.

(c) Any article purchased, exchanged, or received under a license issued pursuant to this article shall be retained by the purchaser thereof at least fifteen days before disposing of the article, in an accessible place on the premises where such articles are purchased and received.

Sec. 36-33. - Electronic Reporting of Transactions.

(a) All licensed pawnbrokers and secondhand dealers by 11:59 p.m. daily, at his or her own expense, under this chapter shall promptly complete and transmit, by electronic means, to the Police Department's computerized system(s), the data identifying all transactions in which the licensee received used goods the preceding day by pawn, exchange, purchase, or consignment. A transaction reported by electronic transmission under this subsection shall not be reported on paper forms unless the Chief of Police so requests.

(b) Each electronic transaction report and record shall include a digital photograph of the article or group of articles, along with a description of the article, and applicable, serial number, make, model number, size, color of the article or articles; the purchase/loan price; ticket number; dealer name and location; the name of the person conducting transaction; place of storage/stock location; and customer information, including operator's license number or other Federal or State identification number, customers name (last, first, middle), customer address, customer date of birth, physical description (height, weight, hair color, race, gender, appropriate fingerprint) and any other information required by the local law enforcement agency.

Sec. 36-34. - Exemptions.

(a) Sections 36-29, 36-30, and 36-31 shall not apply to the following:

- (1) Secondhand or used tires when such tires are removed from the vehicle to which such tires are attached in the presence of the person receiving them.
 - (2) Used car dealers.
 - (3) Not-for-profit organizations re-selling donated goods.
 - (4) Art galleries.
 - (5) Used book stores.
 - (6) Clothing consignment stores.
 - (7) Antique dealers and other dealers in used household goods.
- (b) All licensees exempted from electronic reporting under this section nonetheless shall report, in a format approved by the local law enforcement agency or City Administrator, any transactions involving the following items:
- (1) Home and personal audio and video equipment, including but not limited to televisions, radios, audio players, receivers, and recorders of any kind; and personal electronic devices.
 - (2) Car stereos, GPS devices, and other audio and video equipment for use or installation in a motor vehicle.
 - (3) Computers and video game devices of any kind and related software, game disks, and cartridges.
 - (4) Electrical or other appliances.
 - (5) Hand or power tools for use in carpentry, woodworking, plumbing, electrical work, and any other aspects of building, construction or other trade.
- (c) All licensees exempted under this section nonetheless must comply with State law requirements as set forth in MCL 445.404(2) and MCL 446.205 and this article, to make and maintain a separate record of all transactions that is open to inspection by local law enforcement officers and the Michigan State Police.

Sec. 36-35. - Suspension.

A license issued pursuant to this article may be suspended by the Chief of Police or City Administrator which shall be deemed a suspension with intent to revoke. The Chief of Police or City Administrator shall comply with this chapter in noticing the suspension. The suspension with intent to revoke shall automatically become a revocation of the license unless the licensee requests an appeal hearing within fourteen days pursuant to this article.

Sec. 36-36. - Incorporation of State Law.

The Pawnbrokers Act, being 1917 PA 273, as amended, MCL 446.201 et seq., "the Pawnbrokers Act" and the Secondhand Dealers Act, being 1917 PA 350, as amended MCL 445.401 et. seq., "the Secondhand Dealers Act", are both incorporated by reference as if fully set forth herein. Any violation of the Pawnbrokers Act and the Secondhand Dealers Act shall be considered a violation of this article.

Sec. 36-37. - Appeals.

(a) Any person aggrieved by the denial of an application for a license or by the suspension or revocation of a license as provided by this article, shall have a right to redetermination and an appeal. Such a redetermination may be taken only within fourteen days after notice of such a denial, suspension, or revocation is mailed to the person's last known address. The request for redetermination shall be in writing and shall contain a complete statement of the grounds for appeal. It must be filed with the City Clerk, together with an appeal fee. The fee for an appeal and/or redetermination under this section shall be those fees which the City Council has approved.

(b) Within ten days of the receipt by the City Clerk of such an appeal, the Chief of Police or City Administrator shall schedule a redetermination hearing. Unless waived by the appellant, the Chief of Police or City Administrator shall mail by first class mail a written notice to the appellant of the time and location of the redetermination hearing at least five days prior to that hearing. The redetermination hearing shall be an informal hearing held before a hearing panel consisting of:

- (1) The City Administrator or Chief of Police or designee;
- (2) The affected department head or designee; and
- (3) Law counsel or designee.

(c) The redetermination or decision of the hearing panel shall be reached by majority vote and mailed to the appellant within seven days of the conclusion of the hearing. The redetermination shall include:

- (1) The appeal application and the type and nature of the appeal;
- (2) The applicant's position;
- (3) The original reason for denial of the license or permit;

- (4) The facts as the hearing panel determined them to be;
- (5) The decision or redetermination of the hearing panel;
- (6) The hearing panel's rationale or basis for the redetermination; and
- (7) The date which the redetermination was placed in a United States mail receptacle by the Chief of Police or City Administrator.

(d) The redetermination referred to above shall be final and binding, unless the appellant, within fourteen days of the mailing of such redetermination, files a request in writing addressed to the law counsel, requesting the City Council to rehear the redetermination findings. No appeal shall be made to the City Council, unless:

- (1) A redetermination was made and timely appealed.
- (2) A redetermination hearing has been waived by the appellant and the redetermination hearing panel.
- (3) A redetermination was not made due solely to the fault of the City.

(e) The appeal to the City Council shall be a two-step process limited to the issues raised in the redetermination as follows:

(1) Within fourteen days of receipt of an appeal of a redetermination, the City Council President shall set up a prehearing conference with the City Administrator. At the prehearing conference the following matters shall be determined:

- A. The rules of the hearing;
- B. The date of the hearing;
- C. The issues which may be raised from the redetermination;
- D. The likelihood of settlement; and
- E. Any other pertinent matters.

(2) A hearing before the City Council.

(f) The denial, suspension, or revocation shall remain in effect during such appeal or until the Council shall reverse the administrative decision. The Council may confirm the denial, suspension, or revocation, or provide for revocation instead of suspension, or may reinstate or order the issuance of the license. The action of the Council shall be final.

Sec. 36-38. - License Suspension or Revocation Generally.

(a) For cause shown, any license issued under this article may be suspended or revoked by the Chief of Police or City Administrator, after the notice in writing, setting forth the substance of the charges and the time and place of a hearing thereon; which notice shall be delivered three days in advance, either personally to the licensee or to the principle place or location of the licensed activity, or by postage prepaid mail addressed to the licensee's last known address. Suspension or revocation may be in addition to any fine imposed. All fees paid shall be forfeited in the event of revocation.

(b) The term "cause" as used in this section, shall include:

(1) The conviction by the licensee of any felony or of a misdemeanor involving moral turpitude.

(2) Any fraud, misrepresentation or false statement contained in the application for license or made in connection with conducting the licensed activity.

(3) Preventing or refusing permission for an inspection by any proper City agent or official at any reasonable time of any portion of the premises where the licensed activity is conducted, or of the property thereof.

(4) The doing or omitting of any act or permitting any condition to exist in connection with the licensed activity or upon premises of the facility used in connection therewith; which act, omission, or condition constitutes a breach of the peace or constitutes a menace to the health, safety, or general welfare of the public, or is forbidden by the provisions of this article or established rule or regulation of the City, or any statutes, rules, or regulations of the State applicable to the licensed activity.

(5) The failure to obtain and maintain during the term of any license issued, and any renewal or extension thereof, any local, State, or other required professional governmental license, certification or authority for the trade, occupation, or profession required to be licensed hereunder.

(6) The failure to obtain and maintain during the term of the license, or any renewal or extension thereof, the bonds and insurance required by any section of this article or the Pawnbrokers Act or the Secondhand Dealers Act.

SECTION 2. Repeal. All ordinance or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. Saving Clause.

Nothing in this Ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquiring or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4. Severability.

Should any word, sentence, phrase or any portion of this Ordinance be held in a manner invalid by any court of competent jurisdiction or by any state agency having authority to do so for any reason whatsoever, such holdings shall be construed and limited to such work, sentence, phrase, or any portion of the Ordinance held to be so invalid shall not be construed as affecting the validity of any of the remaining words, sentences, phrases or portions of this Ordinance.

SECTION 5. Publication.

The Clerk for the City of Allen Park shall cause this ordinance to be published in the manner required by law.

SECTION 6. Adoption.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the 26th day of August, 2014.

WILLIAM MATAKAS, Mayor
City of Allen Park

MICHAEL I. MIZZI, City Clerk
City of Allen Park