

**SAGINAW CHARTER TOWNSHIP
CODE OF ORDINANCES - PAWNBROKERS & SECONDHAND DEALERS
CHAPTER 18**

ARTICLE IV. PAWNBROKERS AND SECONDHAND DEALERS*

***State law references:** Pawnbrokers, MCL 446.201 et seq.; secondhand dealers, MCL 445.401 et seq.

DIVISION 1. GENERALLY

Sec. 18-111. Definitions.

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

Business means all kinds of vocations, occupations, professions, enterprises, trades, privileges, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the township, or anywhere else within its jurisdiction.

License or *licensee* means, respectively, the words "permit," or "permittee," or the holder for any use or period of time of any similar privilege, wherever relevant to any provision of this article or other law or ordinance.

Pawnbroker means any person, corporation, or member or members of a co-partnership or firm, 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 personal property or other valuable thing back again at a stipulated price.

State law references: Similar provisions, MCL 446.203.

Premises means all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

Secondhand merchant means any person, corporation, or member or members of a co-partnership or firm whose principal business is that of purchasing, storing, selling, exchanging and receiving, for monetary consideration, secondhand personal property of any kind or description.

(Ord. No. 576, § 3-08.02, 1-1-1998)

Cross references: Definitions generally, § 1-2.

Secs. 18-112--18-130. Reserved.

DIVISION 2. LICENSES GENERALLY

Sec. 18-131. Appeal.

(a) Any party dissatisfied with the decision of the township manager or other appropriate clearing officer or body shall have a right to appeal the decision. The appeal shall be in writing and shall contain a complete statement of the grounds for the appeal. It must be filed with the township clerk, together with an appeal fee of \$10.00 within 14 days after notice of such denial, suspension, or revocation is mailed to the person's last known address. The appeal upon denial includes the denial of a new license.

(b) Within ten days of the receipt of the appeal by the township clerk, the clerk shall schedule an appeal hearing. Unless waived by the parties, the township clerk shall mail by first class mail a written notice of the time and location of the appeal hearing at least five days prior to the hearing. The appeal hearing shall be an informal hearing held before a panel consisting of:

- (1) The township manager or his designee;
- (2) The chief of police or his designee; and
- (3) The township clerk or his designee.

(c) The factual record made in the hearings, or license application record in case of denial, shall constitute the basic record for the appeal. The appeal panel may, but need not, allow the presentation of additional evidence by a majority vote. Argument as to relevant factual and legal issues shall be permitted. The decision of the appeal panel shall be reached by majority vote and mailed to the parties within seven days of the conclusion of the hearing. The decision of the appeal panel shall be final and conclusive.

(d) A party dissatisfied by any decision or order of the appeal panel under this article may appeal the decision or order to a court of competent jurisdiction by filing a petition within 20 days from the date of the mailing of the decision of the appeal panel.
(Ord. No. 576, § 3-08.05, 1-1-1998)

Sec. 18-132. Renewal.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.
(Ord. No. 576, § 3-08.06, 1-1-1998)

Sec. 18-133. Exhibition of license.

Any license issued under this article shall be exhibited at all times in some conspicuous place in such place of business and shall be produced for examination when applying for a renewal thereof or when requested to do so by any township police officer or by any person representing the issuing authority.
(Ord. No. 576, § 3-08.07, 1-1-1998)

Sec. 18-134. Suspension, revocation, denial of renewal of licenses.

- (a) The term "cause" as used in this section shall include:
- (1) The doing or omitting of any act or permitting any condition to exist in connection with a secondhand merchant or pawnbroker business for which a license is granted under the provisions of this article, or any premises or facilities used in connection therewith, which act, omission or condition is contrary to the health, morals, safety or welfare of the public; is unlawful or fraudulent; is unauthorized or beyond the scope of the license granted; or is forbidden by the provisions of this article or any duly established ordinance, rule or regulation of the township applicable to the secondhand merchant or pawnbroker business for which the license has been granted.

- (2) The arrest and conviction of the licensee or permittee for any crime involving moral turpitude.
- (3) Fraud, misrepresentation or any false statement made in the application of the license.
- (4) Fraud, misrepresentation or any false statement made in the operation of a business.
- (5) Failure or inability of an applicant to meet and satisfy the requirements and provisions of this article.
- (6) Violation of any state or federal statute or duly adopted federal, state or local rule or regulation relating to the operation or business pertaining to the license or registration.

(b) Whenever the township manager shall have evidence to warrant the suspension, revocation, or denial of renewal of a license he shall send a notice to the licensee or permittee by certified mail to his last known address, which notice shall contain a statement of the charge or charges against the licensee and a definite time and place for a hearing on the charge, and shall order the licensee to show cause why the license should not be suspended, revoked or denied renewal, and that failure by the licensee to appear at the hearing may result in suspension, revocation, or denial of renewal of the license.

(c) The township manager shall appoint a hearing officer to conduct a public hearing at which the licensee shall be granted an opportunity to show cause why the license should not be suspended, revoked, or denied renewal. The hearing officer may be the township manager or any officer or employee of the township.

(d) In any proceeding under this section, the hearing officer has the power to administer oaths and affirmations and to certify official acts. The hearing officer shall proceed with reasonable dispatch to conclude any matter before him. Due regard shall be shown for the convenience and necessity of the parties and their representatives.

(e) The hearing officer shall cause a record of the entire proceeding to be made by tape recording or by other means of permanent recording determined appropriate by the hearing officer. A transcript of the proceedings shall be made available to all parties upon request and upon payment of a fee prescribed therefor. The fee may be established by the hearing officer but shall not be greater than the cost of making the transcript.

(f) The hearing need not be conducted according to the technical rules of evidence adopted for the courts of record in the state.

- (1) The hearing officer shall take testimony from the licensee and any person having knowledge relevant to the suspension, revocation, or denial of renewal of a license. Oral evidence shall be taken only upon oath or affirmation of the party offering the testimony.
- (2) Hearsay evidence may be used under the following guidelines:
 - a. Hearsay evidence may be used to explain other direct evidence.
 - b. Hearsay evidence may be used to support other direct evidence.
 - c. Hearsay evidence shall not be used in itself to support a finding, unless it would be admissible in a civil action in courts of competent jurisdiction.
- (3) Any relevant evidence shall be admitted. The term "relevant evidence" shall be defined, for the purpose of this section, as the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs. Such relevant evidence shall be admitted regardless of whether or not it may be admissible in civil actions in courts of competent jurisdiction.
- (4) Irrelevant and unduly repetitious evidence shall be excluded.

(g) Each party shall have these rights:

- (1) To call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) To introduce documentary and physical evidence;
- (3) To cross examine opposing witnesses on any matter relevant to the issues of the hearing;
- (4) To impeach any witness regardless of which party first called the witness to testify;
- (5) To refute the evidence;
- (6) To represent himself or to be represented by any one of his choice: who is lawfully permitted to do so; and
- (7) To make a closing statement at the conclusion of the evidentiary portion of the hearing.

(h) Failure of the licensee or his representative to appear at the hearing may be deemed to be an admission by the licensee of the facts set forth in the township manager's notice and order.

(i) At the conclusion of the hearing, the hearing officer shall make written findings of fact based upon the competent evidence and testimony admitted during the hearing.

(j) The hearing officer shall make a finding whether or not the license or permit shall be denied, revoked, or suspended.

(Ord. No. 576, §§ 3-08.05.01--3-08.05.04, 1-1-1998)

Sec. 18-135. Emergency suspensions.

Where the township manager shall determine that, in the interest of the public health, morals, safety or welfare, an immediate suspension is necessary, he shall order the suspension. In such case, the township manager shall forthwith send a notice to the licensee by certified mail to his last known address, which notice shall contain a statement of the charge against the licensee and a definite time and place for a hearing of the charge and shall order the licensee to show cause why his license should not be suspended for an additional period of time or revoked. Unless the licensee requests a longer time, the township manager shall conduct such hearing within five days from the order of suspension. The hearing shall be conducted in accordance with subsection 18-134(c). The decision of the township manager may be appealed pursuant to section 18-131.

(Ord. No. 576, § 3-08.05.06, 1-1-1998)

Sec. 18-136. Fee.

No fee for any license or permit which has been suspended or revoked pursuant to the provisions of this division shall be refunded.

(Ord. No. 576, § 3-08.05.07, 1-1-1998)

Sec. 18-137. Time period for retention of items; records.

Every article purchased or exchanged must be retained by the dealer for at least 15 days before disposing of the article. The dealer must prepare and deliver to the chief of police or his designee on Monday of each week a signed, legible and correct copy of the book containing a description of each article purchased or received during the preceding week, the hour and day it was purchased or received, and a description of the person from whom it was purchased or received. Violation of this section is a misdemeanor and will result in the automatic revocation of the dealer's license and a one-year period during which a license may not be obtained.

(Ord. No. 576, § 3-08.03.12, 1-1-1998)

Sec. 18-138. Purchase from minor.

A secondhand merchant cannot purchase directly or indirectly any item from a minor without the written consent of his parent or legal guardian. Any such violation is a misdemeanor.

(Ord. No. 576, § 3-08.03.13, 1-1-1998)

Sec. 18-139. Hours of business; purchase or receipt of property from thief.

A secondhand merchant cannot purchase or receive any item between the hours of 9:00 p.m. and 7:00 a.m., or purchase or receive an item from any person known to be a thief or an associate of thieves or a receiver of stolen property or from any person he has reason to suspect of being such. Failure to comply with this section is a misdemeanor and will result in the automatic revocation of the license and a one-year period during which a license may not be obtained.

(Ord. No. 576, § 3-08.03.14, 1-1-1998)

Sec. 18-140. Sale of pistols.

A secondhand merchant shall not accept, offer or display a pistol for resale. The term "pistol" means any firearm that is less than 30 inches in length or is any firearm that by its construction and appearance conceals it as a firearm. A flaregun is a pistol.

(Ord. No. 576, § 3-08.03.15, 1-1-1998)

State law references: Similar provisions, MCL 750.229.

Sec. 18-141. Stolen merchandise.

A person, or the agent, employee or representative of a dealer in secondhand merchandise or personal property who fails to make reasonable inquiry that a person selling or delivering property to him that is stolen, embezzled or converted property has a right to do so, or who buys or receives stolen, embezzled or converted property which has a registration, serial or other identifying number altered or obliterated on an external surface of the property, shall be presumed to have bought or received the property knowing the property to be stolen, embezzled or converted.

(Ord. No. 576, § 3-08.03.16, 1-1-1998)

State law references: Similar provisions, MCL 750.535(8).

Secs. 18-142--18-160. Reserved.

DIVISION 3. PAWNBROKERS*

***State law references:** Pawnbrokers, MCL 446.201 et seq.

Sec. 18-161. License.

(a) No person shall directly or indirectly operate, conduct or engage in the business of pawnbroker without first obtaining a license therefor. No such license shall be granted except upon certification of the police chief of the township.

(b) No such license shall be granted to any person unless a complete set of fingerprints of such person are on file in the noncriminal identification file of the township police department.

(c) As a condition of obtaining a license to operate a pawnshop, a licensee is required to acknowledge in writing receipt of a summary of materials regarding certain state statutes and township ordinances which regulate the licensing operation of such a business.

(d) The license shall designate the particular place where the business will be located and the business may not operate from any other place. The license may be revoked for good cause as provided in this article and may not be transferred. The license fee is \$50.00.

(e) Upon the conviction of any persons set forth in this division, the license shall be revoked. No license fee shall be returned, and no further license shall be issued for a period of one year from the date of the revocation.
(Ord. No. 576, §§ 3-08.04.01, 3-08.04.02, 3-08.04.05, 3-08.04.06, 3-08.04.12, 1-1-1998)

Sec. 18-162. Bond.

Before any such license is issued, the applicant therefor shall furnish a corporate surety bond in the sum of \$3,000.00 with sufficient surety to be approved by the township clerk, which bond shall be conditioned upon the due observance during the time of the license of all laws of the state and all ordinances of the township. Any person aggrieved by the action of any such licensee shall have a right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect for a period of 90 days after the expiration or cancellation of any such license or after the termination of any action upon such bond.
(Ord. No. 576, § 3-08.04.03, 1-1-1998)

Sec. 18-163. Records.

No licensee shall fail to keep a record of all persons with whom he does business and of all property coming into his possession together with a record of the disposition of each article, as provided in the recordkeeping requirements for pawnbrokers imposed by the statutes of the state. The police chief or his designee shall at all times have access to such record.
(Ord. No. 576, § 3-08.04.04, 1-1-1998)

Sec. 18-164. Record of property received; contents; inspection; form of permanent record.

(a) A pawnbroker shall keep a record in which is written in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, a description of the article, a sequential transaction number, any amount of money loaned thereon, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the city attorney, township police department, the county prosecuting attorney or the department of state police.

(b) Upon the receipt of any article of personal property or other valuable thing by way of pawn, the pawnbroker shall make a permanent record of the transaction on a form provided by the pawnbroker that substantially complies with the form described in subsection (d) of this section. Each record of transaction shall be completed in duplicate by the pawnbroker, legibly in the English language, and shall contain all applicable information required to complete the record of transaction form under subsection (d) of this section. This subsection does not prohibit the use and transmission of the information required in the record of the transaction by means of computer or other electronic media as permitted by the township police department.

(c) The pawnbroker shall retain a record of each transaction and, within 48 hours after the property is received, shall send one copy of the record of transaction to the police department.

(d) The record of transaction form shall be 8 1/2 inches by 11 inches in size and shall be as follows:

RECORD OF TRANSACTION
FRONT

TABLE INSET:

Article _____		Serial No. _____		
Model No. or Case No. _____		Lens No. or Move. No. _____		
Trade Name _____	Color _____	Size _____	No. Jewels _____	
Material _____	STONE SET DESIGN _____			
Description _____	No. _____	Kind of Stone _____	Size _____	
_____	_____	_____	_____	
Inscription or Initials _____	_____			
Purchase Price Amt. Loaned _____	_____			
Dealer _____	_____			
_____	_____	_____	_____	
City _____	Date _____	_____		Ticket No. _____
LADY'S <input type="checkbox"/> GENT'S <input type="checkbox"/> Wrist <input type="checkbox"/> Pocket <input type="checkbox"/> Lapel <input type="checkbox"/>				

BACK

Operator's License # or Other I.D. # _____

Customer's Name (PRINT)

Street No. or RFD

City and State

TABLE INSET:

Employed By: _____	Rolled print of RIGHT thumb (If impossible then some other fingerprint. Designate which.)	
Age Height _____		
Weight Race W [] B [] O []		
Time Received: AM PM _____		
MAIL REPORTS WITHIN 48 HOURS TO		
LOCAL OFFICERS		
Signature of person taking print _____		

(Ord. No. 576, §§ 3-08.04.07--3.08.04.09, 1-1-1998)

State law references: Similar provisions, MCL 446.205.

Sec. 18-165. Statement of daily transactions.

Every pawnbroker must make daily, a sworn statement of all transactions, describing the items received, and setting forth the name, address and description of the person from whom they were received.

(Ord. No. 576, § 3-08.04.10, 1-1-1998)

State law references: Similar provisions, MCL 446.206.

Sec. 18-166. Memorandum of items received.

(a) At the time a loan is made, the pawnbroker must give to the person pawning or pledging any goods, article or thing, a memorandum or note, signed by the pawnbroker, listing the items received, and setting forth the name, address and description of the person from whom they were received.

(b) The memorandum or note described in subsection (a) of this section, must be consecutively numbered and must have printed on its back, in English, the following words:

"If interest or charges in excess of three percent 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."

(Ord. No. 576, §§ 3-08.04.11, 3-08.04.12, 1-1-1998)

State law references: Similar provisions, MCL 446.208.

Sec. 18-167. Interest on loans; rate; storage charge; time of payment; computation; fee or excess charge prohibited.

(a) A licensed pawnbroker may charge upon any loan a rate of interest not to exceed three percent per month and is not required to accept any interest less than \$0.50 on a single loan.

(b) A pawnbroker may also charge \$1.00 per month or fraction of a month for the storage of property under any single pledge or pawn.

(c) A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on the loan in excess of the amounts provided for in this article.

(d) Interest on any loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.

(e) A pawnbroker is not entitled to any examination fee and shall not make any charge in excess of the amounts provided for in this article.

(Ord. No. 576, § 3-08.04.13, 1-1-1998)

State law references: Similar provisions, MCL 446.205.

Sec. 18-168. Retention of property prior to resale.

A pawnbroker cannot sell any pawn or pledge until the property has remained in his possession for three months.

(Ord. No. 576, § 3-08.04.14, 1-1-1998)

State law references: Similar provisions, MCL 446.216(2).

Sec. 18-169. Defacing articles.

A pawnbroker cannot deface, scratch, obliterate, melt, separate or break into parts any article or thing received by him in pawn or otherwise, and cannot, in any manner, do, cause or permit anything to be done by others which shall destroy or tend to destroy the identity of any pawned or pledged article or render the identification thereof more difficult.

(Ord. No. 576, § 3-08.04.15, 1-1-1998)

State law references: Similar provisions, MCL 446.213.

Sec. 18-170. Pawned property; acceptance from certain persons prohibited.

A pawnbroker shall not receive for pawn any article from any person under 18 years of age or a person the pawnbroker suspects as having stolen the article to be pawned.

(Ord. No. 576, § 3-08.04.16, 1-1-1998)

State law references: Similar provisions, MCL 446.214.

Sec. 18-171. Sunday business.

A pawnbroker shall not conduct business on Sunday.

(Ord. No. 576, § 3-08.04.17, 1-1-1998)

State law references: Similar provisions, MCL 446.217.

Sec. 18-172. Pawning of pistols.

A pawnbroker cannot take a pistol in pawn. To take a pistol in pawn is a misdemeanor. The term "pistol" means any firearm that is less than 30 inches in length or is any firearm that by its construction and appearance conceals it as a firearm. A flaregun is a pistol.

(Ord. No. 576, § 3-08.04.19, 1-1-1998)

State law references: Similar provisions, MCL 750.229.

Sec. 18-173. Stolen goods.

A person, or the agent, employee or representative of a pawnbroker who fails to make reasonable inquiry that a person selling or delivering property to him that is stolen, embezzled or converted property, has a right to do so or who buys or receives stolen, embezzled or converted property which has a registration, serial or other identifying number altered or obliterated on an external surface of the property shall be presumed to have bought or received the property knowing the property to be stolen, embezzled or converted.

(Ord. No. 576, § 3-08.04.20, 1-1-1998)

State law references: Similar provisions, MCL 750.535(8).

Secs. 18-174--18-190. Reserved.

DIVISION 4. SECONDHAND MERCHANTS

Sec. 18-191. License.

(a) No person shall directly or indirectly operate, conduct or engage in the business or occupation of dealing in secondhand merchandise or used personal property without first obtaining a license therefor. For the purpose of this section, dealing in secondhand or used personal property shall include purchasing, selling, exchanging or storing to facilitate or promote the sale of secondhand or used personal property of any kind or description; provided, that this section shall not apply to persons who deal exclusively in used personal property commonly known as antiques or to nonprofit or charitable organizations who receive and offer for sale donated personal property.

(b) No such license shall be granted except upon certification of the police chief of the township and unless a complete set of the fingerprints of the applicant therefor are on file in the noncriminal identification file of the township police department.

(c) As a condition of obtaining a license to operate as a secondhand merchant, licensee is required to acknowledge in writing receipt of a summary of materials regarding certain state statutes and township ordinances which regulate the licensing operation of such a business.

(d) Failure to obtain such license is a misdemeanor.

(e) The license shall designate the particular place where the business will be located and the business may not operate from any other place. The license shall be valid for one year from the date of issuance. The license may be revoked for cause as provided in this article and may not be transferred. The license fee is \$50.00.

(Ord. No. 576, §§ 3-08.03.01, 3-08.03.02, 3-08.03.05, 3-08.03.07, 3-08.03.08, 1-1-1998)

Sec. 18-192. Bond.

Before any such license is issued, the applicant therefor shall furnish a corporate surety bond in the sum of \$3,000.00 with sufficient surety to be approved by the township clerk, which bond shall be conditioned upon the due observance during the time of the license of all laws of the state and all ordinances of the township. Any person aggrieved by the action of any such licensee shall have a right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect for a period of 90 days after the expiration or cancellation of any such license or after the termination of any action upon such bond.

(Ord. No. 576, § 3-08.03.06, 1-1-1998)

Sec. 18-193. Records; report to police chief.

No person shall fail to keep a record of all persons with whom he does business and all property coming into his possession, nor shall any licensee fail to report such persons and property weekly to the police chief on forms prescribed by the state, or if no such forms are prescribed by the state, by the police chief. The police chief shall at all times have access to such daily record.

(Ord. No. 576, § 3-08.03.04, 1-1-1998)

Sec. 18-194. Fingerprints.

(a) At the same time that any secondhand merchant acquires or purchases any article of personal property or other valuable thing, he must take, in duplicate, the legible imprint of the right thumb of the person from whom such property was received, or if that is not possible, of the left thumb or some other finger of such person. The thumbprint must be taken on forms provided by the state police.

(b) Within 48 hours of obtaining duplicate thumbprints, one copy of the thumbprint, together with a statement of the nature of the property received, must be sent to the chief of police of the township. The second copy must be sent to the state police.

(Ord. No. 576, §§ 3-08.03.09, 3-08.03.10, 1-1-1998)

State law references: Similar provisions, MCL 445.472.

Sec. 18-195. Record book.

(a) Every secondhand merchant must keep a book which is open to inspection by a member of the police department in which is recorded at the time he purchases or exchanges any article of personal property the following information:

- (1) A description of the article;
- (2) The name of the seller;
- (3) The residence address of the seller;
- (4) A description of the seller by means of a picture identification or other method sufficient to identify the person;
- (5) The day and hour when the property was received.

(b) Each entry must be numbered consecutively. Failure to comply with this provision is a misdemeanor and will result in the automatic revocation of the license and a one-year period during which a license may not be obtained.

(Ord. No. 576, § 3-08.03.11, 1-1-1998)

Sec. 18-196. Prohibited transactions.

No licensee shall purchase, or receive any article:

- (1) From any person under the age of 18 years without the written consent of his parent or legal guardian; or
- (2) From any person that was the subject of a written notice by authorized officers pursuant to section 5 or 14 of Public Act No. 273 of 1917 (MCL 446.205, 446.214).

(Ord. No. 576, § 3-08.03.03, 1-1-1998)