



CITY OF BAYTOWN

City Clerk's Office
2401 Market Street Baytown, Texas 77520
Phone: (281) 420-6504 Fax: (281) 420-5891
Web: www.baytown.org

FOR OFFICE USE ONLY

Date Received: _____

Date Processed: _____

SECONDHAND DEALER APPLICATION

FEE: \$10-\$250

Applicant Information

- 1) Full Name of Applicant: _____
- 2) Home Address: _____
City: _____ State: _____ Zip: _____
- 3) Primary Phone: _____ Secondary Phone: _____
- 4) Date of Birth: _____ Place of Birth (City, State): _____
- 5) Addresses where applicant has resided in the five years immediately preceding this application (list addresses beginning with most recent, attach list of addresses to this application if more than three):
 - 5a) Address: _____
City: _____ State: _____ Zip: _____
 - 5b) Address: _____
City: _____ State: _____ Zip: _____
 - 5c) Address: _____
City: _____ State: _____ Zip: _____
- 6) Social Security Number **OR** Federal Tax Identification Number: _____
- 7) Driver's License Number: _____ Issuing State: _____
- 8) Check one of the following: I am a citizen of the United States
 I am an alien legally residing in the United States

Partnership / Corporation Information

- 1) If the business is a partnership or corporation list the names and addresses of each partner / officer (attach list of names and addresses to this application if there are more than three):
 - 1a) Name: _____ Position: _____
Address: _____
 - 1b) Name: _____ Position: _____
Address: _____
 - 1c) Name: _____ Position: _____
Address: _____

Business Information

- 1) Business Name: _____
- 2) Address of fixed and permanent location where the business is to be conducted: _____

City: _____ State: _____ Zip: _____
- 3) Check one of the following: Fixed and permanent location of operation is *owned* by the business
 Fixed and permanent location of operation is *leased* by the business
- 4) Days / hours of operation:
 Monday Hours: _____ am _____ pm
 Tuesday Hours: _____ am _____ pm
 Wednesday Hours: _____ am _____ pm
 Thursday Hours: _____ am _____ pm
 Friday Hours: _____ am _____ pm
 Saturday Hours: _____ am _____ pm
 Sunday Hours: _____ am _____ pm

Criminal History and License History

- 1) Has the individual applicant, any partner in the partnership, or any officer or director of the corporation been arrested, charged, or convicted for any criminal offense in this state or any other state or country, exclusive of class C misdemeanor traffic violations?
 No
 Yes, If yes please describe offense, date and place of offense and applicable court and court date

- 2) Has the individual applicant, any partner in the partnership, or any officer or director of the corporation had a City of Baytown secondhand metal dealer or metal recycling entity license revoked?
 No
 Yes, If yes please describe offense, date, and place of offense

Determination of License Fee

1) Type of license (check one): Annual (\$250 or \$50 if answer to next question is "Yes")
 Daily (\$10 per day)
 Number of Days: _____ From: _____ To: _____

2) Does your business deal exclusively in:

a) Used books, magazines, and other printed documents;

b) Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images;

c) Used items of clothing, except those made in whole or in part from fur, but not in any other items, goods, products, wares, clothes or articles which are subject to regulation under Chapter 82 Division II of the City of Baytown Code of Ordinances.

Yes

No, If no please describe the type of business and goods sold below:

Application Attachments

<i>Attachment Number</i>	<i>Attachment Description</i>	<i>Is the Required Documentation Attached to this Application?</i>
1	Attach proof of ownership of private property or a written statement of property owner or authorized agent, including their name, address, and phone number, granting permission for operation of business at the proposed location. Please note if the property owner is a partnership or corporation, the statement shall include the name, address, and phone numbers of one of the partners or principals. (<i>ex: lease agreement, event agreement, property deed</i>)	Yes <input type="checkbox"/> No <input type="checkbox"/>
2	Copy of Applicant's Driver's License, Military ID Card, or Passport	Yes <input type="checkbox"/> No <input type="checkbox"/>
3	Copy of Certificate of Occupancy (<i>for annual permit only</i>)	Yes <input type="checkbox"/> No <input type="checkbox"/>
4	Copy of DBA registered in the State of Texas	Yes <input type="checkbox"/> No <input type="checkbox"/>

Affidavit

I, _____ (Name of Applicant) do hereby state that all matters stated in this application and accompanying attachments are true and correct. I hereby state that I have read and understand the *City of Baytown Code of Ordinances Chapter 82 - Secondhand Goods*. I further attest that I am at least 18 years of age and have presented as evidence:

- State issued driver’s license or I.D. card with a photograph, or information, including name, sex, date of birth; or
- A military identification card; or
- United States Passport.

SIGNED on this the _____ day of _____, 20_____.

Signature

Title

THE STATE OF _____ §
COUNTY OF _____ §

SUBSCRIBED AND SWORN before me, this _____ day of _____.

(Seal)

NOTARY PUBLIC STATE OF _____

Other Important Information

- A separate license shall be required for each permanent location of business.
- Once issued, the license shall be prominently displayed at all times at or near the principal public entrance to the licensed premises in such a manner that it will be conspicuous to customers who enter the premises.
- A downloadable version of City of Baytown Code of Ordinances Chapter 82 – Secondhand Goods is available on the City’s website and can also be found at the following website:
<http://library.municode.com/index.aspx?clientId=10022&stateId=43&stateName=Texas>
- Should you have any questions, feel free to contact the City Clerk’s office, Phone: (281) 420-6504 Fax: (281) 420-5891 Web: www.baytown.org

How can I submit this application? Mail or deliver original application to: City of Baytown, City Clerk, 2401 Market Street, Baytown, TX 77520. The City Clerk’s office accepts cash or checks for payment.

Chapter 82 - SECONDHAND GOODS^[1]

Footnotes:

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Cross reference— Businesses, ch. 20.

State Law reference— Pawnbrokers, Vernon's Ann. Civ. St. art. 5069-51.01 et seq.

ARTICLE I. - IN GENERAL

Secs. 82-1—82-25. - Reserved.

ARTICLE II. - METALS, CRAFTED PRECIOUS METALS AND GEMS

DIVISION 1. - GENERALLY

Secs. 82-26—82-54. - Reserved.

DIVISION 2. - METALS^[2]

Footnotes:

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Editor's note—Ord. No. 10,780, §§ 2, 3, adopted Dec. 13, 2007, repealed the former Div. 2, §§ 82-56—82-61, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from the original codification.

State Law reference— Secondhand metal dealers, records and reports of purchases and sales of copper, brass and bronze materials, Vernon's Ann. Civ. St. art. 9009.

Sec. 82-55. - Definitions.

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

Aluminum material means a product made from aluminum, an aluminum alloy or an aluminum byproduct. The term includes an aluminum beer keg, but does not otherwise include an aluminum can used to contain a food or beverage.

Building construction materials mean copper pipe, tubing or wiring; aluminum wire; aluminum siding; plumbing supplies; electrical supplies; window glass; window frames; doors; door frames; downspouts; gutters; lumber; air conditioning units and other similar materials.

Bronze material means:

- (1) A cemetery vase, receptacle or memorial made from bronze;
- (2) Bronze statuary; or
- (3) Material that is readily identifiable as bronze.

Copper or brass material means insulated or noninsulated copper wire or cable of the type used by public utilities or common carriers, copper or brass items of a type commonly used in construction or by public utilities or any combination consisting only of those items.

Chief of police means the chief of police of the city.

Clear thumb print impression means an intentional recording of the friction ridge detail on the volar pads of the thumb.

Electronic database means an electronic filing system in which data is organized by fields and records.

Licensee means a person who holds a license to conduct business as a scrap metal processor or secondhand dealer.

Metal recycling entity means a person, who, from a fixed location, engages in the business of utilizing machinery or equipment for the processing or manufacturing of iron, steel or nonferrous metallic scrap and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for remelting purposes.

Minor means any person less than 18 years of age.

Personal identification document means:

- (1) A driver's license;
- (2) A military identification card;
- (3) A passport issued by the United States or by another country and recognized by the United States; or
- (4) A personal identification certificate issued by the Texas Department of Public Safety under V.T.C.A., Transportation Code § 521.101 or a corresponding card or certificate issued by another state.

Regulated material means aluminum material, bronze material or copper or brass material.

Scrap metal means a direct product or byproduct of any form of a manufactured, shaped, or processed iron, steel, aluminum, brass, copper, lead, tin, zinc, or other nonferrous metallic material.

Secondhand metal dealer means an auto wrecker, a scrap metal processor or any other person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring regulated material or any person operating, carrying on, conducting or maintaining a scrap metal yard or other place where scrap metal or cast-off regulated material of any kind is gathered together or kept for shipment, sale or transfer.

Secondhand dealer means a person who engages in the business of buying, selling, trading or otherwise dealing in used items, other than metal items.

Show means any display and offering of used items for sale or trade by more than one dealer at a single location.

Used means any items, goods, products, wares, chattels, or articles of any sort which have previously been owned by someone other than the manufacturer, or a dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the consumer.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-56. - Penalties for violation.

- (a) Failure to comply with any provision of this division shall be grounds for the revocation of or the refusal to issue or renew any license required in this division, in addition to any fines imposed upon conviction.
- (b) Conviction of any law of the state of Texas, another state, or the United States which constitutes moral turpitude shall be grounds for the revocation of or the refusal to issue or renew any license required in this division, in addition to any penalties imposed upon conviction.
- (c) Any person violating any provision of this division shall upon conviction be punished by a fine as provided in section 1-14.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-57. - Exceptions.

This division shall not apply to:

- (1) Businesses licensed as automotive dealers or pawnshops as defined by state law; or
- (2) A purchase of regulated material from a manufacturing, industrial, or other commercial vendor that sells regulated material in the ordinary course of the vendor's business.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-58. - Administrative rules.

The chief of police shall promulgate rules and regulations to administer the provisions of this ordinance. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city clerk and the office of the chief of police. Failure to comply with any of the promulgated rules or regulations established under this section shall be grounds for the revocation of or the refusal to issue or renew any license required of the owner or operator of a metal recycling, secondhand metal or secondhand business under this Code. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this division.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-59. - License required; posting of license.

No person shall operate as a metal recycling entity, secondhand metal dealer, or secondhand dealer or own any such business without a license as herein provided. Any person who engages in more than one business described herein at the same location must obtain a license only for his principal business activity and not for the other businesses. The provisions of section 82-63, requiring that certain records be kept, apply to all businesses carried on at a single location. A separate license shall be required for each permanent location of any such business. The license shall be prominently displayed at all times at or near the principal public entrance to the licensed premises in such a manner that it will be conspicuous to customers who enter the premises.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-60. - Bond.

- (a) The city shall require that an applicant for a metal recycling entity or secondhand metal dealer license file a bond with the application. The bond must be:
 - (1) Satisfactory to the city;
 - (2) In the amount of \$10,000.00 for each license;
 - (3) Issued by a surety qualified to do business in this state; and
 - (4) Valid at the time of the application and remain in effect during the entire term of the license.
- (b) The aggregate liability of the surety may not exceed the amount of the bond.
- (c) The bond must be in favor of the city for the use of the city and the use of a person who has a cause of action under this division against the metal recycling entity or secondhand metal dealer.
- (d) The bond must be conditioned on:
 - (1) The metal recycling entity's or secondhand metal dealer's compliance with this division and rules adopted under this division; and
 - (2) The payment of all amounts that become due to the city or to another person under this division.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-61. - Application for and issuance or refusal of license.

- (a) Any person desiring a license required by this division shall make application therefor in writing to the city clerk on an application form provided for that purpose. On the application the applicant shall set forth:
 - (1) The full name, phone number and residential address of the applicant;
 - (2) A statement indicating whether the applicant is a citizen of the United States or an alien legally residing in the United States;
 - (3) The applicant's social security number or business' federal tax identification number and driver's license number;
 - (4) The full name and address of each partner if the applicant is a partnership;
 - (5) The full name and address of each officer and director if the applicant is a corporation;
 - (6) The fixed and permanent location where the business is to be conducted and proof of his ownership of the private property or a written statement including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the business at the proposed location where his business will be in operation. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or one of the principals prior to issuance of any license;
 - (7) The regular days and hours of operation;
 - (8) The applicant's date of birth, place of birth, and each address where he has resided in the five years immediately preceding his application;
 - (9) A statement of whether the individual applicant, any partner in a partnership, or any officer or director of a corporation, has been arrested, charged, or convicted for any criminal offense in this state or any other state or country, exclusive of class C misdemeanor traffic violations. If he has been arrested or jailed for any such offense, he shall set out the offense for which he was

arrested, jailed, or imprisoned, the date of the arrest or confinement, and the place, court and case number of the case;

- (10) A statement that neither he nor any business partner, nor, in the case of a corporation, any corporate officer or director, has had a license under this division or any preceding city ordinance governing the businesses described herein revoked;
 - (11) The signature of the applicant;
 - (12) A sworn and notarized statement that all matters stated in the application are true and correct;
 - (13) Evidence that the applicant is at least 18 years of age by presentation of valid identification, including a photograph showing the face of the applicant, in the form of:
 - a. A current driver's license from Texas or another state within the United States;
 - b. An identification card issued by the Texas Department of Public Safety; or
 - c. A current passport; and
 - (14) Such other information as the chief of police finds relevant.
- (b) The city clerk shall review and approve the application and issue a license unless he/she finds:
- (1) The information provided in the application is incomplete, false or incorrect or the applicant has failed to comply with this division and applicable rules and regulations; and
 - (2) The applicant has had a license issued pursuant to this division revoked during the preceding one-year period.
- (c) In the event that the city clerk rejects or refuses to issue an application, the provisions of section 82-79 shall apply.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-62. - License fees; use of license at shows.

- (a) Except as provided in subsection (d) of this section, the nonrefundable license fee for a metal recycling entity, a secondhand metal dealer or a secondhand dealer with any permanent place of business within the city shall be \$250.00 yearly, payable prior to the issuance of the license. Such license, unless revoked as provided herein, shall be valid for one year from the date of issuance.
- (b) Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city; provided the same is displayed at all times at or near the principal public entrance to the area where licensee is exhibiting and is conspicuous to customers who enter such area.
- (c) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$10.00 per day.
- (d) Notwithstanding any other provisions of this division, the license fee shall be \$50.00 yearly for any secondhand dealer who deals exclusively in:
 - (1) Used books, magazines and other printed documents;
 - (2) Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images;
 - (3) Used items of clothing, except those made in whole or in part from fur, but not in any other items, goods, products, wares, clothes or articles which are subject to regulation under this division; and/or

- (4) The said license fee shall be paid prior to the issuance of the nonrefundable license thereof. A license issued under this subsection shall be conspicuously marked to indicate that the business is authorized to deal only in the items listed in this subsection.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-63. - Records required to be kept by metal recycling entities and secondhand metal dealers.

- (a) The provisions of this section apply to all businesses carried on at a single location. With the exception of the sale or transfer of aluminum cans, a metal recycling entity or secondhand metal dealer shall keep at his place of business a record in an electronic database, in a form and method approved by the chief of police, in which he shall enter daily, in English, a full description

of each transaction in which personal property is purchased or otherwise received at his place of business. Such description shall include:

- (1) The date and time of receipt of any item;
 - (2) The full name and current address of the person or place of business from which each item was received;
 - (3) A clear thumbprint impression from the person seeking to transfer, sell or otherwise give the items that are the subject of each transaction;
 - (4) Evidence that the person transferring, selling or otherwise giving the items is at least 18 years of age by presentation of valid identification, including a photograph of the face of person transferring, selling or otherwise giving the item, in the form of:
 - a. A current driver's license from Texas or another state within the United States;
 - b. An identification card issued by the Texas Department of Public Safety or another state within the United States; or
 - c. A current passport;
 - (5) A description of the motor vehicle and/or trailer or other mode of transportation in or on which each item received was carried, delivered or transported to the metal recycling entity, secondhand metal dealer, or secondhand dealer's place of business, including state and license plate number, if applicable;
 - (6) The individual transaction number assigned by the licensee to each item received;
 - (7) A description of the items received as part of the transaction including, where customary in the business, the size, weight, material, length, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items;
 - (8) A digital photograph of each item received;
 - (9) If the item received is a junked, abandoned or wrecked automotive vehicle, documentation of ownership and any other information required for receipt of such vehicles as provided in state or federal laws or regulations and any provision of this Code; and
 - (10) The name, address, phone number, driver's license number and employee number of the employee who facilitates or conducts the transaction.
- (b) The metal recycling entity or secondhand metal dealer shall forward the required record and descriptions set forth in subsection (a) of this section in an electronic format compatible with the system designated by the chief of police to the police department before the close of business on each day on which the metal recycling entity or secondhand metal dealer is open for business.
 - (c) The metal recycling entity or secondhand metal dealer, his agents or employees shall obtain a consecutively numbered receipt from the seller or transferor of the property. Such receipt shall be

dated on the actual date of the transaction and shall list the items sold or otherwise transferred. A printed version of the record input and transmitted to the real-time electronic web-based database as described in this section shall satisfy this requirement. An accurate copy or record of receipts obtained shall be retained for a period of not less than three years.

- (d) A metal recycling entity or secondhand metal dealer shall, upon request, submit and exhibit the various business records that are required to be maintained under this section for inspection or copying by any peace officer or authorized inspector of the chief of police.
- (e) Each transaction shall be recorded via digital video device, and each recording medium shall be maintained for a period of one year from the date of the latest transaction recorded thereon. A metal recycling entity or secondhand metal dealer shall post a notice in each place of business regarding the recording of the transaction via video device pursuant to specifications established by the chief of police. The chief of police shall specify the information to be set out on the notice, the size of the print, the colors, and the location where the notice shall be placed.
- (f) The City of Baytown may assist those licensed businesses in obtaining digital video and electronic thumbprint identification equipment or other required identifying equipment as may become available through advancements in technology by providing assistance to scrap dealers for equipment through equipment leases, lease/purchase arrangements, or other similar financial arrangements as the city deems appropriate.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-64. - Stock to be open for examination.

The stock or inventory of any metal recycling entity, secondhand metal dealer, or secondhand dealer that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the chief of police.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-65. - Articles to be retained at least three business days; tag; exceptions.

- (a) Three business days hold. No metal recycling entity or secondhand metal dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received for 3 business days excluding weekends and holidays after receipt, provided that he is not required to keep aluminum cans for more than 24 hours. During such three business day period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the database. Such property shall not be kept in such a manner so as to prevent or impede its examination.
- (b) Tag. In addition to the requirements set forth in subsection (a) of this section, a metal recycling entity or secondhand metal dealer shall affix or otherwise attach a tag or label to each item maintained for a minimum of 72 hours under the provisions of this section that includes the date of receipt of the item to which the tag or label is attached, the name and address of the person or place of business from whom such item was received, and the corresponding individual transaction number from the database maintained under section 82-63.
- (c) Exceptions. A metal recycling entity is not required to comply with the provisions of this section if:
 - (1) The metal items are in their original packaging, in which case the metal recycling entity must comply with section 82-72 of this Code;
 - (2) The metal recycling entity verifies that the person seeking to sell or otherwise transfer the metal items has a valid city-issued metal recycling entity or secondhand metal dealer license, which the metal recycling entity or secondhand metal dealer shall record by photocopying the license

or recording the license number in connection with the sale and maintain for a period of not less than three years; or

- (3) The metal recycling entity verifies that the person or entity seeking to sell or otherwise transfer the metal items has a valid city-issued construction, demolition, or electrical permit, which the metal recycling entity or secondhand metal dealer shall record by photocopying the permit or recording the project number located on the permit in connection with the sale and maintain for a period of not less than three years.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-66. - Purchasing or receiving goods.

(a) Receipt; payment; records.

- (1) Each metal recycling entity, secondhand metal dealer, or secondhand dealer shall provide a receipt to the seller on site at the time of the transaction, which records the date, time and place of the transaction, a description of the materials involved, and the dollar amount of the transaction. Each metal recycling entity, secondhand metal dealer, or secondhand dealer shall pay for the purchase of copper or brass material, bronze material or aluminum material, excluding aluminums can used to contain a food or beverage, with a check, not with cash, which check shall be mailed to the seller's address. Each metal recycling entity shall maintain the canceled check and associated bank statement for a minimum of one year from the date of issuance of the check.

(b) From minors.

- (1) No metal recycling entity, secondhand metal dealer, or secondhand dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless:
 - a. The minor is accompanied by his parent or guardian, who shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent; or
 - b. The only items offered for sale by the minor are aluminum cans.
- (2) It shall be the duty of such metal recycling entity, secondhand metal dealer, or secondhand dealer to preserve and keep on file, and available for inspection, the written statements of consent required in subsection (b)(1) of this section for a period of not less than three years.

(Ord. No. 10,780, § 3, 12-13-07; Ord. No. 11,570, § 2, 2-10-11)

Editor's note— Section 2 of Ord. No. 11,570, adopted Feb. 10, 2011, changed the title of § 82-66 from "Purchasing or receiving goods of minors" to "Purchasing or receiving goods."

Sec. 82-67. - Change in business address.

Should any licensee move his place of business from the place designated in such license to a new address, he shall immediately give written notice to the city clerk and have the change noted on his license. A fee of \$2.00 payable to the city is hereby levied for such change. Such notice and fee must be tendered to the city clerk prior to the licensee conducting any business regulated in this division from the new site.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-68. - Revocation of license on verified complaint.

- (a) Upon written verified complaint filed by any person with the city clerk or chief of police setting out facts alleging that any licensee under this division has, since the license was granted, violated the provisions of this division, or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of V.T.C.A., Texas Penal Code §§ 37.09 or 37.10, or that the licensee falsified his original application for a license, the chief of police shall investigate the allegations.
- (b) If the chief of police determines that the licensee has violated the provisions of this division, or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of V.T.C.A., Texas Penal Code §§ 37.09 or 37.10, or that the licensee falsified his original application for a license, the chief of police may revoke the license and/or take other appropriate action.
- (c) Any license revocation by the chief of police under this section may be appealed in accordance with subsections 82-79(c) and (d).

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-69. - Acceptance of property suspected stolen; peace officer requested holds; violation.

- (a) It shall be the duty of every metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees to report immediately to the police department, by filing a formal complaint, any offer to sell to the metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees, property that such metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such metal recycling entity, secondhand metal dealer or secondhand dealer, his agents, or employees, shall also report any property acquired by the metal recycling entity, secondhand metal dealer or secondhand dealer that the metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees, subsequently determine or reasonably suspect to be stolen property, and the metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.
- (b) Notwithstanding the provisions of section 82-65 of this division, it shall be the duty of every metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees to hold all suspected stolen property in a secure place for 60 days upon request by a peace officer. The metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees, may not process or remove the property from the dealer's or entity's premises before the sixtieth day after receipt of the request from a peace officer to hold the property unless:
 - (1) The item is released into a peace officer's care, custody and control at an earlier time;
 - (2) A peace officer releases in writing the hold on the property upon an earlier date;
 - (3) A peace officer issues a written extension of the holding period for a period not to exceed 24 months; or
 - (4) A court orders release or preservation of the property.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-70. - Acceptance of building construction materials.

It shall be unlawful for any metal recycling entity or secondhand metal dealer to receive, sell, dismantle, deface or in any manner alter or dispose of any building construction material received by him unless:

- (1) The metal recycling entity or secondhand metal dealer complies with the provisions of this division; and
- (2) Prior to receiving, selling, dismantling, defacing or in any manner altering or disposing of any building construction material, the metal recycling entity or secondhand metal dealer,
 - a. Records, along with the description of the property, and the serial number, or other identifying characteristics of each part or piece of building construction material; and
 - b. Obtains a written, signed statement from the seller attesting by a notary public to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-71. - Government or utility property.

- (a) It shall be unlawful for any metal recycling entity or secondhand metal dealer, his agents or employees to purchase or receive an item of property, including, but not limited to, street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, on which are written or affixed the words "Property of the City of Baytown" or other words or markings demonstrating ownership by the city except in the following circumstances:
 - (1) Where the person offering such property for sale is an employee of the city authorized by the city to make such a sale and provides the metal recycling entity or secondhand metal dealer, his agents or employees with a written authorization from the city's director of finance for the sale of such property; or
 - (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the city evidencing the purchase of such property by the person offering such property.
- (b) It shall be unlawful for any metal recycling entity or secondhand metal dealer, his agents or employees to purchase or receive an item of property that is marked with any form of the name or initials of a governmental agency, including, but not limited to, the states and the United States of America and their agencies and political subdivisions or that the metal recycling entity or secondhand metal dealer, his agents or employees know or should reasonably be expected to know belongs to a governmental agency, including, but not limited to, street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, except:
 - (1) Where the person offering such property for sale is an employee of the governmental agency authorized by that agency to make such a sale and provides the metal recycling entity or secondhand metal dealer, his agents or employees with a written authorization from the agency for the sale of such property; or
 - (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the governmental agency evidencing the purchase of such property by the person offering such property.
- (c) It shall be unlawful for any metal recycling entity or secondhand metal dealer, his agents or employees to purchase or receive an item of property that is marked with any form of the name or initials of an electrical, telephone, cable, or other public utility company or that the metal recycling

entity or secondhand metal dealer, his agents or employees know or should reasonably be expected to know belongs to a public utility unless the person offering such property for sale presents at the time of such offer a valid receipt from the public utility company evidencing the purchase of such property by the person offering such property.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-72. - Acceptance of property in original packaging.

It shall be unlawful for any metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees to purchase or receive an item of property in its original packaging unless the person offering such item presents a receipt or proof of purchase for that property.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-73. - Acceptance of property inscribed with company name.

It shall be unlawful for any metal recycling entity or secondhand metal dealer, or his agents or employees, to purchase or receive an item of property that is marked with any form of the name or initials of a private company or that the metal recycling entity or secondhand metal dealer knows or should reasonably be expected to know belongs to a private company unless the person offering such property for sale presents at the time of such offer a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-74. - Acceptance of property delivered by shopping cart.

It shall be unlawful for any metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees to purchase or receive an item of property that is transported to the metal recycling entity, secondhand metal dealer or secondhand dealer's place of business by a shopping cart that is marked with any form of the name or initials of a private company or that the metal recycling entity, secondhand metal dealer or secondhand dealer knows or should reasonably be expected to know belongs to a private company unless the person operating the shopping cart presents at the time of transportation of property to the metal recycling entity, secondhand metal dealer or secondhand dealer presents a valid receipt from the owner of the shopping cart evidencing the purchase of the shopping cart by the person operating the shopping cart.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-75. - Exemptions—From license fee.

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code) of the United States Code, must obtain a license as required herein; provided, however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this division apply to such organizations.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-76. - Inapplicability of certain chapter provisions.

Notwithstanding any other provision of this division that might be construed to the contrary, the provisions of sections 82-63 and 82-65 of this Code shall not be applicable to the sale, receipt, transfer or holding of:

- (1) Used books, magazines and other printed documents;
- (2) Used phonograph records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and
- (3) Used items of clothing, except those made in whole or in part from fur.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-77. - Operation of yards used by secondhand dealers.

- (a) Compliance. All lots or tracts of land used for the purpose of carrying on the business or trade of a secondhand dealer or used for open storage by a secondhand dealer shall comply with the requirement of this section.
- (b) Removal of flammable liquids from vehicles. All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a secondhand dealer. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the fire code adopted in section 38-61 of this Code.
- (c) Fencing, wall requirements. Every yard owned or operated by a secondhand dealer within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:
 - (1) Any side of such yard which extends generally parallel to, and within 100 feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight feet in height.
 - (2) All sides of such yard not included in subsection (c)(1) above shall be bounded by a solid fence or wall at least six feet in height.
 - (3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.
- (d) Construction, maintenance of fence or wall. Every fence or wall herein required shall be constructed and maintained as follows:
 - (1) All fences shall be constructed of only those materials permitted in section 18-1011 of this Code.
 - (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
 - (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
 - (4) All fences or walls shall be constructed and maintained in compliance with all applicable provisions of this Code.
- (e) Use of wall, door of building as part of fence or wall. Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

- (f) Gates at openings in enclosure. Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal daytime business hours.
- (g) Use of premises outside enclosure. It shall be unlawful for any owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom or any other new or used metal materials outside of or above the herein required fence or wall.
- (h) Arrangement of materials. All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a secondhand dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, neighborhood protection and police officials of the city.
- (i) Control of vegetation. It shall be unlawful for the owners or operators of any yard used by a secondhand dealer to allow grass or other vegetation in violation of chapter 42 of this Code.
- (j) Compliance with regulations and ordinances. All yards used by a secondhand dealer must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the fire code adopted in section 38-61.
- (k) Improved surface. All lots or tracts of land used as a yard by a secondhand dealer must have an all-weather surface of concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface and appropriate drainage.
- (l) Storage of materials. Any materials stored in a yard owned and operated by a secondhand dealer must be stored at least six inches above the improved surface of the yard. The requirements of this subsection shall not apply to any materials stored wholly inside a building.

Sec. 82-78. - Operation of yards used by metal recycling entities and secondhand metal dealers.

- (a) Compliance. All lots or tracts of land used for the purpose of carrying on the business or trade of metal recycling entities or secondhand metal dealers shall comply with the requirement of this section.
- (b) Removal of flammable liquids from vehicles. All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a metal recycling entity or secondhand metal dealer in the city. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the fire code adopted in section 38-61 of this Code.
- (c) Fencing, wall requirements. Every equipment and inventory storage and processing yard owned or operated by a metal recycling entity or secondhand metal dealer within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:
 - (1) Any side of such yard which extends generally parallel to, and within 100 feet of any public street right-of-way shall be bounded by a solid fence or wall at least six feet in height.
 - (2) All sides of such yard not included in subsection (c)(1) above shall be bounded by a solid fence or wall at least six feet in height.
 - (3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.
- (d) Construction, maintenance of fence or wall. Every fence or wall herein required shall be constructed and maintained in good repair as follows:
 - (1) All fences shall be constructed of only those materials permitted in section 18-1011 of this Code.

- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed and maintained in compliance with all applicable provisions of this Code.
- (e) Use of wall, door of building as part offence or wall. Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.
- (f) Gates at openings in enclosure. Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed-and securely locked at all times except during normal business hours.
- (g) Use of premises outside enclosure. It shall be unlawful for an owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom or any other new or used metal materials outside of the herein required fence or wall.
- (h) Arrangement of materials. All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a metal recycling entity or secondhand metal dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, health and police officials and the neighborhood protection official of the city. No materials shall be stored at a height greater than six feet within ten feet of the fence required herein.
- (i) Control of vegetation. It shall be unlawful for the owners or operators of any yard used by a metal recycling entity or secondhand metal dealer to allow grass or other vegetation in violation of chapter 42 of this Code.
- (j) Compliance with regulations and ordinances. All yards used by a metal recycling entity or secondhand metal dealer must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the fire code adopted in section 38-61.
- (k) Improved surface. All lots or tracts of land used as a yard by a metal recycling entity or secondhand metal dealer must have an all-weather surface of concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface designed and constructed so as to support anticipated loads along with appropriate drainage. This subsection shall not include those areas of a yard which are utilized for purposes of inventory storage and processing.
- (l) Vector and rodent control. Any materials stored in a yard owned and operated by a metal recycling entity or secondhand metal dealer must be stored in a manner which will allow adequate vector and rodent control measures. An owner or operator shall provide for vector and rodent control at least once within a 90-day period or more frequently as needed.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-79. - Rejection; refusal to renew; revocation; hearing; penalty.

- (a) Grounds for rejection, refusal to renew or revocation. The city clerk may reject an original application, or an application for a renewal of any existing license, if, as a result of inspections by the police department or other city department, it appears that the applicant's place of business is not in compliance with or violates any provision of this division.

- (b) Notice. If the city clerk rejects an application, refuses to renew or revokes any license issued under this division to a metal recycling entity, secondhand metal dealer or secondhand dealer for failure to comply with any provision of this division, the city clerk shall give written notice by certified mail to the applicant at the address stated in the application of the metal recycling entity, secondhand metal dealer or secondhand dealer. The written notice shall specifically set forth the reasons for the rejection, refusal or revocation.
- (c) Appeal. The metal recycling entity, secondhand metal dealer or secondhand dealer shall have ten days from the date of the receipt of mailing of the notice of rejection, refusal or revocation of his license to appeal the rejection, refusal or revocation of the license to the city manager. Upon receipt of an appeal notice, the city clerk shall notify the metal recycling entity, secondhand metal dealer or secondhand dealer of the date and time of the hearing, to be held at the earliest time practicable.
- (d) Hearings.
 - (1) All hearings shall be held before the city manager. The city manager may, prior to the hearing, receive a copy of the notice given to the applicant or license holder.
 - (2) The city attorney may be present at the hearing to advise the city manager as to procedural matters; however, the attorney shall not participate in any determination of the facts.
 - (3) All hearings shall be conducted under rules established by the city manager that are consistent with the informal nature of the proceedings; provided, however, the following rules shall apply to all hearings:
 - a. All parties shall have the right to representation by an attorney licensed to practice in Texas, though an attorney is not required.
 - b. Each party may present witnesses in his own behalf.
 - c. Each party has the right to cross-examine all witnesses.
 - d. Only evidence presented before the city manager at the hearing shall be considered in rendering the decision.
 - (4) The city manager may affirm or reverse a license rejection, refusal to renew or a license revocation. The decision of the city manager shall be final and shall be delivered in writing to the applicant or license holder in the same manner as a notice under subsection (b) herein.

(Ord. No. 10,780, § 3, 12-13-07)

Sec. 82-80. - Abatement of operations for unlawful operation of a metal recycling, secondhand metal, or secondhand business.

- (a) Declaration; notice. The continued ownership and operation of or engaging in a business that participates in buying, selling, trading or otherwise dealing in new or used metal in violation of this division is declared to be a public nuisance where (1) the metal recycling entity, secondhand metal dealer or secondhand dealer is convicted three or more times for violations under this division in a 24-month period, (2) the city manager finds and determines that the owner or operator habitually violates the provisions of this division and that issuance of citations and subsequent convictions for violations of this division are no longer adequate remedies to address unlawful operations or (3) that pursuit of a civil action will promote preservation and protection of property of the city or its inhabitants. Whenever the existence of a public nuisance under this section shall come to the knowledge of the city manager, the city manager shall cause a written notice, as provided in subsection (b) of this section, to be sent to the owner identifying the business in violation of this division and directing that the unlawful activity cease within a reasonable time to be determined by the city manager.
- (b) Notice.

- (1) The notice under this section must be given:
 - a. Personally to the owner in writing;
 - b. By letter addressed to the registered agent of the partnership or corporation for service of process, or to the individual owner at the owner's latest address according to the records of the city clerk.
 - c. If personal service cannot be obtained:
 - (i) By publication at least once in the Baytown Sun;
 - (ii) By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - (iii) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.
 - (2) If the city clerk mails a notice to a property owner in accordance with subsection (a) of this section, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
 - (3) A notice provided under this section shall state that the owner is entitled to request a hearing to be held in the manner described in section (c) of this section.
- (c) Abatement hearing. The owner subject to abatement under this section may request a hearing by notifying the city clerk within ten days following the date the city mails the required notice under subsection (b) of this section. The hearing shall be conducted in accordance with the procedures set forth in subsection 82-79(d) by the city manager for the purpose of determining whether the metal recycling entity, secondhand metal dealer or secondhand dealer has operated his business in violation of this division and the criteria set out in subsection (a) above are satisfied. At the hearing, the owner and the city may present any evidence relevant to the proceedings. If the city manager determines that the metal recycling entity, secondhand metal dealer or secondhand dealer has operated his business in violation of this division or any other provision of this Code, and that the criteria set out in subsection (a) above for the designation of public nuisance have been satisfied, the city manager shall issue an order so stating and direct that the owner cease the unlawful operations.
- (d) Abatement by city; expenses and liens. If the owner fails to timely cease unlawful operations within ten business days of the hearing official's order, then the city attorney shall be authorized to exercise all other remedies available to the city relating to the subject matter hereof as set out in subsection (e) below.
- (e) Remedies cumulative, civil enforcement, other action not limited. The remedies set forth in this section are cumulative of all other remedies available to the city relating to the subject matter hereof. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking any other available actions. Specifically, the city attorney may institute any legal action to enforce this ordinance or enjoin or otherwise cause the abatement of any condition described in this division, as well as for the recovery of all expenses incurred in connection therewith, including without limitation administrative and legal expenses, attorney's fees and costs, and for civil penalties as provided by law. The city attorney is hereby authorized to file a civil suit in a court of competent jurisdiction to prevent the violation of any of the provisions of this division.

(Ord. No. 10,780, § 3, 12-13-07)

Secs. 82-81—82-90. - Reserved.

DIVISION 3. - CRAFTED PRECIOUS METALS AND GEMS³¹

Footnotes:

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Editor's note—Ord. No. 10,780, § 4, adopted Dec. 13, 2007, amended Div. 3 in its entirety to read as herein set out. Former Div. 3, §§ 82-91—82-98, pertained to similar subject matter, and derived from Code 1967, §§ 21-8—21-10, 21-11(a), (c), 21-12, 21-13, Ord. No. 3080, § 1, adopted Feb. 12, 1981.

State Law reference— Crafted precious metals, dealer purchase and disposition, Vernon's Ann. Civ. St. art. 9009a.

Sec. 82-91. - Definitions.

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

Chief of police means the chief of police for the City of Baytown and such persons as he may designate to perform his duties under this division.

Clear thumb print impression means an intentional recording of the friction ridge detail on the volar pads of the thumb.

Crafted precious metals means jewelry, silverware, art objects or any other thing or object made, in whole or in part, from gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium or their alloys, excluding coins and commemorative medallions.

Dealer means any person who engages in the business of purchasing and selling crafted precious metals or gems.

Electronic database means an electronic filing system in which data is organized by fields and records.

Licensee means a person who holds a license to conduct business as a seller or purchaser of crafted precious metals and gems.

Personal identification document means:

- (1) A driver's license;
- (2) A military identification card;
- (3) A passport issued by the United States or by another country and recognized by the United States; or
- (4) A personal identification certificate issued by the Texas Department of Public Safety under V.T.C.A., Transportation Code § 521.101 or a corresponding card or certificate issued by another state.

Temporary location means a place where business is conducted for a period shorter than 90 days.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-92. - Penalties for violation.

- (a) Failure to comply with any provision of this division shall be grounds for the revocation of or the refusal to issue or renew any license required in this division, in addition to any penalties or fines on conviction.
- (b) Conviction of any law of the state of Texas, another state, or the United States which constitutes moral turpitude shall be grounds for the revocation of or the refusal to issue or renew any license required in this division, in addition to any penalties imposed upon conviction.
- (c) Any person violating any of the sections of this division shall upon conviction be punished by a fine as provided in section 1-14.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-93. - Exceptions.

This division applies only to the crafted precious metals that have been sold or used primarily for personal, family or household purposes. The following are exceptions to the requirements of this division.

- (1) Precious metal extracted, recovered, or salvaged from industrial by-products or industrial waste products. This division does not apply to a person whose purchase or sale of precious metal or a product made of precious metal is merely incidental to the person's business of extracting, recovering, or salvaging precious metal from industrial by-products or industrial waste products.
- (2) Dental, pharmaceutical, or medical application of crafted precious metal. This division does not apply to a dental, pharmaceutical, or medical application of crafted precious metal.
- (3) Crafted precious metal acquired from another dealer who previously made required reports. This division does not apply to crafted precious metal acquired in good faith in a transaction involving the stock-in-trade of another dealer who previously made the reports concerning that metal as required by this division if:
 - a. The selling dealer delivers to the acquiring dealer a written document stating that the reports have been made;
 - b. The acquiring dealer submits a copy of the statement to the chief of police or the sheriff of the county in which the selling dealer is located; and
 - c. Each dealer involved in the transaction retains a copy of the statement until the third anniversary of the date of the transaction.
- (4) Crafted precious metal acquired in dissolution or liquidation sale. This division does not apply to crafted precious metal acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock-in-trade, in bulk, or a substantial part of those assets, of an industrial or commercial enterprise, other than a dealer, for the voluntary dissolution or liquidation of the seller's business, or for disposing of an excessive quantity of personal property, or property that has been acquired in a nonjudicial sale or transfer from an owner other than a dealer, the seller's entire household of personal property, or a substantial part of that property, if the dealer:
 - a. Gives written notice to the chief of police or the sheriff of the county in which the dealer's business is located that a reporting exemption is being claimed under this section;
 - b. Retains in the dealer's place of business, until the third anniversary of the date of the transaction, a copy of the bill of sale, receipt, inventory list, or other transfer document; and
 - c. Makes the record retained available for inspection by a peace officer.
- (5) Crafted precious metal acquired in judicial sale. This division does not apply to crafted precious metal acquired in a sale made:

- a. By any public officer in the officer's official capacity as a trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority; or
 - b. On the execution of, or by virtue of, any process issued by a court.
- (6) Crafted precious metal acquired as payment for other crafted precious metal by person in business of selling to consumers. This division does not apply to crafted precious metal acquired in good faith as part or complete payment for other crafted precious metal by a person whose principal business is primarily that of selling directly to the consumer crafted precious metal that has not been subject to a prior sale.
- (7) Crafted precious metal acquired from or reported to governmental agency. This division does not apply to crafted precious metal:
- a. Acquired as surplus property from the United States, a state, a subdivision of a state, or a municipal corporation; or
 - b. Reported by a dealer as an acquisition or a purchase, or reported as destroyed or otherwise disposed of, to:
 - 1. A state agency under another law of this state; or
 - 2. A municipal or county office or agency under another law of this state or a municipal ordinance.
- (8) Crafted precious metal acquired by person licensed under Texas Pawnshop Act. This division does not apply to crafted precious metal acquired by a person licensed under V.T.C.A., Finance Code ch. 371.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-94. - Administrative rules.

The chief of police shall promulgate rules and regulations to administer the provisions of this ordinance. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city clerk and the office of the chief of police. Failure to comply with any of the promulgated rules or regulation established under this section shall be grounds for the revocation of or the refusal to issue or renew any license required of the owner or operator of a crafted precious metals and gems business under this Code. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this division.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-95. - License required; posting of license.

No person shall operate as a crafted precious metals and gems business or own any such business without a license as herein provided. Any person who engages in more than one business described herein at the same location must obtain a license only for his principal business activity and not for the other businesses. The provisions of section 82-99, requiring that certain records be kept, apply to all businesses carried on at a single location. A separate license shall be required for each permanent location of any such business. The license shall be displayed prominently at all times at or near the principal public entrance to the licensed premises in such a manner that it will be conspicuous to customers who enter the premises.

Sec. 82-96. - Bond.

- (a) The city clerk shall require that an applicant for a crafted precious metals and gems dealer license file a bond with the application. The bond must be:
 - (1) Satisfactory to the City of Baytown;
 - (2) In the amount of \$10,000.00 for each license;
 - (3) Issued by a surety qualified to do business in this state; and
 - (4) Valid at the time of the application and remain in effect during the entire term of the license.
- (b) The aggregate liability of the surety may not exceed the amount of the bond.
- (c) The bond must be in favor of the city for the use of the city and the use of a person who has a cause of action under this division against the crafted precious metals and gems dealer.
- (d) The bond must be conditioned on:
 - (1) The crafted precious metals and gems dealer's compliance with this division and rules adopted under this division; and
 - (2) The payment of all amounts that become due to the city or to another person under this division.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-97. - Application for and issuance or refusal of license.

- (a) Any person desiring a license required by this division shall make application therefor in writing to the city clerk on an application form provided for that purpose. On the application the applicant shall set forth:
 - (1) The full name and residential address of the applicant;
 - (2) A statement indicating whether the applicant is a citizen of the United States or an alien legally residing in the United States;
 - (3) The applicant's social security number or business' federal tax identification number;
 - (4) The full name and address of each partner if the applicant is a partnership;
 - (5) The full name and address of each officer and director if the applicant is a corporation;
 - (6) The fixed and permanent location where the business is to be conducted and proof of his ownership of the private property or a written statement including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the business at the proposed location where his business will be in operation. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or one of the principals prior to issuance of any license;
 - (7) The regular days and hours of operation;
 - (8) The applicant's date of birth, place of birth, and each address where he has resided in the five years immediately preceding his application;
 - (9) A statement of whether the individual applicant, any partner in a partnership, or any officer or director of a corporation, has been arrested, charged, or convicted for any criminal offense in this state or any other state or country, exclusive of class C Misdemeanor traffic violations. If he has been arrested or jailed for any such offense, he shall set out the offense for which he was arrested, jailed, or imprisoned, the date of the arrest or confinement, and the place, court and case number of the case;

- (10) A statement that neither he nor any business partner, nor, in the case of a corporation, any corporate officer or director, has had a license under this division or any preceding city ordinance governing the businesses described herein revoked;
 - (11) The signature of the applicant;
 - (12) A sworn and notarized statement that all matters stated in the application are true and correct;
 - (13) Evidence that the applicant is at least 18 years of age by presentation of valid identification, including a photograph showing the face of the applicant, in the form of:
 - a. A current driver's license from Texas or another state within the United States;
 - b. An identification card issued by the Texas Department of Public Safety; or
 - c. A current passport; and
 - (14) Such other information as the chief of police finds relevant.
- (b) The city clerk shall review and approve the application and issue a license unless he finds:
- (1) The information provided in the application is incomplete, false or incorrect or the applicant has failed to comply with this division and applicable rules and regulations;
 - (2) The applicant has had a license revoked during the preceding one-year period; and
 - (3) In the event that the city clerk rejects or refuses to issue an application, the provisions of section 82-112 shall apply.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-98. - License fees; use of license at shows.

- (a) The nonrefundable license fee for a dealer with any permanent place of business within the city shall be \$250.00 yearly, payable prior to the issuance of the license. Such license, unless revoked as provided herein, shall be valid for one year from the date of issuance and shall be subject to renewal from year to year.
- (b) Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city provided the same is displayed at all times at or near the principal public entrance to the area where licensee is exhibiting and is conspicuous to customers who enter such area.
- (c) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$10.00 per day.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-99. - Records required to be kept by crafted precious metals and gems dealers.

- (a) The provisions of this section apply to all businesses carried on at a single location. A crafted precious metals and gems dealer shall keep at his place of business a record in a real-time electronic web-based database, in a form and method approved by the chief of police, in which he shall enter daily, in English, a full description of each transaction in which personal property is purchased or otherwise received at his place of business. Such description shall include:
 - (1) The date and time of receipt of any item;
 - (2) The full name and current address of the person or place of business from which each item was received;

- (3) A clear thumbprint impression from the person seeking to transfer, sell or otherwise give the items that are the subject of each transaction;
 - (4) Evidence that the person transferring, selling or otherwise giving the items is at least 18 years of age by presentation of valid identification, including a photograph of the face of person transferring, selling or otherwise giving the item, in the form of:
 - a. A current driver's license from Texas or another state within the United States;
 - b. An identification card issued by the Texas Department of Public Safety; or
 - c. A current passport;
 - (5) A description of the motor vehicle and/or trailer or other mode of transportation in or on which each item received was carried, delivered or transported to the crafted precious metals and gems dealer's place of business, including state and license plate number, if applicable;
 - (6) The individual transaction number assigned by the licensee to each item received;
 - (7) A description of the items received as part of the transaction including, where customary in the business, the size, weight, material, length, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items;
 - (8) A digital photograph of each item received; and
 - (9) The name, address, phone number, driver's license number, and employee number of the employee who facilitates or conducts the transaction.
- (b) The real-time electronic web-based database described in subsection (a) of this section shall be created and maintained by the police department. The precious metals and gems dealer shall forward the required record and descriptions set forth in subsection (a) of this section in an electronic format to the designated police department web site before the close of business on each day on which the crafted precious metals and gems dealer is open for business.
 - (c) The crafted precious metals and gems entity or dealer, his agents or employees shall obtain a consecutively numbered receipt from the seller or transferor of the property. Such receipt shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. A printed version of the record input and transmitted to the real-time electronic web-based database as described in this section shall satisfy this requirement. An accurate copy or record of receipts obtained shall be retained for a period of not less than three years.
 - (d) A crafted precious metals and gems entity or dealer shall, upon request, submit and exhibit the various business records that are required to be maintained under this section for inspection or copying by any peace officer or authorized inspector of the chief of police. Failure to maintain or to so permit the examination or copying of such records when requested shall be a misdemeanor punishable as provided be section 1-14 of this Code or as otherwise provided by state law.
 - (e) Each transaction shall be recorded via digital video device, and each recording medium shall be maintained for a period of one year from the date of the latest transaction recorded thereon. A crafted precious metals and gems entity or dealer shall post a notice in each place of business regarding the recording of the transaction via video device pursuant to specifications established by the chief of police. The chief of police shall specify the information to be set out on the notice, the size of the print, the colors, and the location where the notice shall be placed.
 - (f) The City of Baytown may assist those licensed businesses in obtaining digital video and electronic thumbprint identification equipment or other required identifying equipment as may become available through advancements in technology by providing assistance to scrap dealers for equipment through equipment leases, lease/purchase arrangements, or other similar financial arrangements as the city deems appropriate.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-100. - Stock to be open for examination.

The stock or inventory of any crafted precious metals and gems dealer that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the chief of police. Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a crafted precious metals and gems dealer under this Code.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-101. - Articles to be retained at least eleven days; tag; exceptions.

- (a) Eleven-day hold. No crafted precious metals and gems dealer shall melt, sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him for 11 days after receipt. During such 11-day period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the database. Such property shall not be kept in such a manner so as to prevent or impede its examination.
- (b) Tag. In addition to the requirements set forth in subsection (a) of this section, a crafted precious metals and gems dealer shall affix or otherwise attach a tag or label to each item maintained for a minimum of 11 days under the provisions of this section that includes the date of receipt of the item to which the tag or label is attached, the name and address of the person or place of business from whom such item was received, and the corresponding individual transaction number from the database maintained under section 82-99 of this chapter.
- (c) Exceptions. Crafted precious metals and gems dealer is not required to comply with the provisions of this section if:
 - (1) The items are not in their original packaging, in which case the crafted precious metals and gems dealer must comply with section 82-107 of this Code; and
 - (2) A crafted precious metals and gems entity or dealer verifies that the person seeking to sell or otherwise transfer the metal items has a valid city-issued crafted precious metals and gems entity or dealer license, which the precious metals and gems entity or dealer shall record by photocopying the license or recording the license number in connection with the sale and maintain for a period of not less than three years.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-102. - Purchasing or receiving goods.

- (a) Receipt; payment; records.
 - (1) Each precious metals and gems entity or dealer shall provide a receipt to the seller on site at the time of the transaction, which records the date, time and place of the transaction, a description of the materials involved, and the dollar amount of the transaction. Each precious metals and gems entity or dealer shall pay for the purchase of the crafted precious metals or gems with a check, not with cash, which check shall be mailed to the seller's address. Each metal recycling entity shall maintain the canceled check and associated bank statement for a minimum of one year from the date of issuance of the check.
- (b) From minors.
 - (1) No precious metals and gems entity or dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor is accompanied by his parent or

guardian, who shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent.

- (2) It shall be the duty of such crafted precious metals and gems dealer to preserve and keep on file, and available for inspection, the written statements of consent required in subsection (b)(1) of this section for a period of not less than three years.

(Ord. No. 10,780, § 4, 12-13-07; Ord. No. 11,570, § 3, 2-10-11)

Editor's note— Section 3 of Ord. No. 11,570, adopted Feb. 10, 2011, changed the title of § 82-66 from "Purchasing or receiving goods of minors" to "Purchasing or receiving goods."

Sec. 82-103. - Change in business address.

Should any licensee move his place of business from the place designated in such license to a new address, he shall immediately give written notice to the city clerk and have the change noted on his license. A fee of \$2.00 payable to the city clerk is hereby levied for such change. Such notice and fee must be tendered to the city clerk prior to the licensee conducting any business regulated in this division from the new site.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-104. - Revocation of license on verified complaint.

- (a) Upon written verified complaint filed by any person with the city clerk or chief of police setting out facts alleging that any licensee under this division has, since the license was granted, violated the provisions of this division, or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of V.T.C.A., Penal Code §§ 37.09 or 37.10, or that the licensee falsified his original application for a license, the chief of police shall investigate the allegations.
- (b) If the chief of police determines that the licensee has violated the provisions of this division, or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of V.T.C.A., Penal Code §§ 37.09 or 37.10, or that the licensee falsified his original application for a license, the chief of police may revoke the license and/or take other appropriate action.
- (c) Any license revocation by the chief of police under this section may be appealed in accordance with subsection 82-112(c) and (d).

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-105. - Acceptance of property suspected stolen; peace officer requested holds; violation.

- (a) It shall be the duty of every crafted precious metals and gems dealer, his agents or employees to report immediately to the police department, by filing a formal complaint, any offer to sell to the crafted precious metals and gems entity or dealer, his agents or employees, property that such crafted precious metals and gems entity or dealer, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such crafted precious metals and gems entity or dealer, his agents, or employees, shall also report any property acquired by the crafted precious metals and gems entity or dealer that the crafted precious metals and gems entity or dealer, his agents or employees, subsequently determine or reasonably suspect to be stolen property, and

the precious metals and gems entity or dealer, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

- (b) Notwithstanding the provisions of section 82-101 of this division, it shall be the duty of every crafted precious metals and gems entity or dealer, his agents or employees to hold all suspected stolen property in a secure place for 60 days upon request by a peace officer. The crafted precious metals and gems entity or dealer, his agents or employees, may not process or remove the property from the dealer's or entity's premises before the sixtieth day after receipt of the request from a peace officer to hold the property unless:
- (1) The item is released into a peace officer's care, custody and control at an earlier time;
 - (2) A peace officer releases in writing the hold on the property upon an earlier date;
 - (3) A peace officer issues a written extension of the holding period for up to 24 months; or
 - (4) A court orders release or preservation of the property.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-106. - Report of purchasing.

- (a) Not later than 48 hours after the time it is received, each dealer shall report in accordance with section 82-99 all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment or accepts for auction.
- (b) Each dealer, before the time any crafted precious metal is offered for sale or exchange, shall notify each person intending to sell or exchange the crafted precious metal that the person must file with the dealer, before the dealer may accept any of the person's property, a list describing all of the person's crafted precious metal to be accepted by the dealer as required in section 82-99.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-107. - Acceptance of property in original packaging.

It shall be unlawful for any crafted precious metals and gems dealer, his agents or employees to purchase or receive an item of property in its original packaging unless the person offering such item presents a receipt or proof of purchase for that property.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-108. - Acceptance of property inscribed with company name.

It shall be unlawful for any crafted precious metals and gems dealer, or his agents or employees, to purchase or receive an item of property that is marked with any form of the name or initials of a private company or that the crafted precious metals and gems entity or dealer knows or should reasonably be expected to know belongs to a private company unless the person offering such property for sale presents at the time of such offer a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-109. - Acceptance of property delivered by shopping cart.

It shall be unlawful for any crafted precious metals and gems dealer, his agents or employees to purchase or receive an item of property that is transported to the crafted precious metals and gems dealer's place of business by a shopping cart that is marked with any form of the name or initials of a private company or that the crafted precious metals and gems dealer knows or should reasonably be expected to know belongs to a private company unless the person operating the shopping cart presents at the time of transportation of property to the crafted precious metals and gems dealer a valid receipt from the owner of the shopping cart evidencing the purchase of the shopping cart by the person operating the shopping cart.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-110. - Exemptions from license fee.

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code) of the United States Code, must obtain a license as required herein; provided, however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this division apply to such organizations.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-111. - Purchases at temporary locations.

- (a) Under this division, a dealer who conducts business from a temporary location may not engage in the business of buying precious metal or gems or used items made of precious metal or gems unless the person has filed a registration statement with the police department within a 12-month period at least 30 days preceding the date on which each purchase is made and the person has filed, within the same period, a copy of the registration statement with the chief of police. A registration statement must set forth the following:
 - (1) The name and address of the person;
 - (2) The location where business is to be conducted; and
 - (3) Other relevant information required by the police department.
- (b) If the dealer is an association or corporation, the statement must set forth the name and address of each member of the association or each officer and director of the corporation, respectively.

(Ord. No. 10,780, § 4, 12-13-07)

Sec. 82-112. - Rejection; refusal to renew; revocation; hearing; penalty.

- (a) Grounds for rejection, refusal to renew or revocation. The city clerk may reject an original application as a result of inspections by the police department or other city department, if it appears that the applicant's place of business is not in compliance with or violates any provision of this division.
- (b) Notice. If the city clerk rejects an application, refuses to renew or revokes any license issued under this division to a dealer for failure to comply with any provision of this division, the city clerk shall give written notice by certified mail to the applicant at the address stated in the application of the dealer. The written notice shall specifically set forth the reasons for the rejection, refusal or revocation.
- (c) Appeal. The dealer shall have ten days from the date of the receipt of mailing of the notice of rejection, refusal or revocation of his license to appeal the rejection, refusal or revocation of the license to the city manager. Upon receipt of such notice, the city clerk shall notify the dealer of the date and time of the hearing, to be held at the earliest time practicable.

(d) Hearings.

- (1) All hearings shall be held before the city manager. The city manager shall, prior to the hearing, receive a copy of the notice given to the applicant or license holder.
- (2) The city attorney or assistant city attorney may be present at the hearing to advise the city manager as to procedural matters; however, the attorney shall not participate in any determination of the facts.
- (3) All hearings shall be conducted under rules established by the city manager that are consistent with the informal nature of the proceedings; provided, however, the following rules shall apply to all hearings:
 - a. All parties shall have the right to representation by an attorney licensed to practice in Texas, though an attorney is not required.
 - b. Each party may present witnesses in his own behalf.
 - c. Each party has the right to cross-examine all witnesses.
 - d. Only evidence presented before the hearing officer at the hearing shall be considered in rendering the decision.
- (4) The city manager may affirm or reverse a license rejection, refusal to renew or a license revocation. The decision of the city manager shall be final and shall be delivered in writing to the applicant or license holder in the same manner as a notice under subsection (b) of this section.

(Ord. No. 10,780, § 4, 12-13-07)

Secs. 82-113—82-130. - Reserved.

ARTICLE III. - JUNK AND AUTOMOTIVE WRECKING AND SALVAGE^[4]

Footnotes:

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Cross reference— Traffic and vehicles, ch. 94.

State Law reference— Junkyards and automobile graveyards, V.T.C.A., Transportation Code § 391.121 et seq.

DIVISION 1. - GENERALLY

Sec. 82-131. - 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:

Junk means scrap iron, tin, brass, copper, lead, zinc and all metallic substances, except metals and crafted precious metals which are regulated in article II of this chapter, handled, purchased, received or offered for sale by dealers in junk and means and includes secondhand plumbing and electric fixtures; wires; globes; brass pipe, lead pipe and pipe of other metals; melted metals of any kind; such parts of machinery or machines that may be identified as such; any fixture pertaining to a residence, business

house or other house of any kind; abandoned automobile hulls and bodies and any parts or automobile accessories, including horns, prestolite tanks, tires and all detached and detachable parts of any automobile, bicycle, motorcycle or motor vehicle of any kind or of any vehicle of any kind; hydrants; faucets; lawn hose; lawn sprinklers; gas fixtures; fittings; appliances; garden tools; mechanical tools of every description; harness; rags; rubber; rope; bottles; and utensils of every description. The enumeration of the articles in this definition shall not be held to exclude other articles that may be reasonably included under the general definition of junk, when given its usual trade meaning.

Junk dealer means any person engaged in collecting, handling or selling any of the articles defined as junk and all persons engaged in the buying and selling of such goods, wares and merchandise.

(Ord. No. 531, § 1, 4-15-59; Code 1967, § 16-1; Ord. No. 1032, § 1, 6-25-70)

Cross reference— Definitions generally, § 1-2.

Sec. 82-132. - Penalty for violation.

Any person violating this article shall upon conviction be punished as provided in section 1-14.

(Code 1967, § 16-25; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-133. - Records of junk dealers.

- (a) Each junk dealer, dealer in secondhand material or person who shall purchase any kind of junk or secondhand material shall keep in a well-bound book an accurate daily record of the following:
 - (1) Each article purchased, when purchased and the amount paid by the dealer for each of such articles; and
 - (2) An accurate description of the person selling the article, giving the person's:
 - a. Name, sex, age and residence; and
 - b. Operator's license number, if any, or the license plate number of the vehicle, if any, in which junk was delivered or was obtained.
- (b) The book or record shall be accessible at all reasonable times to the city police or any peace officer, and all such police officers and peace officers shall have the right at all reasonable times to examine such record when searching or looking for lost or stolen articles or in determining whether or not this article is being faithfully kept and observed.

(Ord. No. 531, § 2, 4-15-59; Code 1967, § 16-2)

Sec. 82-134. - Purchases from minors.

Under this article, a dealer shall not accept articles from minors except under certain conditions. No such dealer or operator of a junk business shall purchase or receive in pledge or on deposit for any purpose any article from any minor or that may be owned or claimed by or in the possession or control of any minor unless the parent or guardian of the minor shall state in writing that the transaction takes place with the parent's or guardian's full knowledge and consent. The written statement shall be signed by the parent or guardian and shall have thereon the address and telephone number, if any, of such parent or guardian.

(Ord. No. 531, § 3, 4-15-59; Code 1967, § 16-3)

Sec. 82-135. - Purchases from strangers.

Any person selling or depositing any amount of junk with a dealer who is not well and personally known to the dealer shall be identified by some reputable citizen known to the dealer, whose signature and address shall be placed on the report required by this article.

(Ord. No. 531, § 4, 4-15-59; Code 1967, § 16-4)

Secs. 82-136—82-160. - Reserved.

DIVISION 2. - JUNKYARDS AND SALVAGE YARDS⁵

Footnotes:

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State Law reference— Automobile wrecking and salvage yards, V.T.C.A., Transportation Code § 396.001 et seq.

Sec. 82-161. - Definitions.

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

Automotive wrecking and salvage yard means any lot or tract of land whereupon three or more discarded, abandoned, junked, wrecked or worn-out automotive vehicles, including but not limited to autos, trucks, tractor-trailers and buses, are kept or stored.

Junkyard means any lot or tract used or maintained as a dumping ground or for the storage, wrecking or disassembling of junk, as defined in section 82-131.

Solid fence means a fence constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chainlink fence with strips or slats as provided in this division.

(Code 1967, § 16-15; Ord. No. 1401, § 2, 5-24-73; Ord. No. 7277, § 1, 3-23-95)

Cross reference— Definitions generally, § 1-2.

Sec. 82-162. - License required, issuance.

- (a) Any person desiring to use or maintain any property as a junkyard or automotive wrecking and salvage yard shall make written application to the city clerk for a license. The application shall set forth the name and address of the applicant and a legal description of the property or premises.
- (b) If the application is granted, a license to operate such business shall be issued by the city clerk upon the payment of a fee of \$5.00 per annum. Any license so issued shall expire January 1 next succeeding the date of its issuance, but may be renewed from year to year, in like manner as provided for the original license. No application shall be granted or license renewed unless the

property to be used as a junkyard or automotive wrecking and salvage yard is fenced as required in this division.

(Code 1967, § 16-16; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-163. - Revocation of license.

The city council shall have the power to revoke the license required in section 82-162 at any time for good cause, but only after notice has been given to the owner of the business of a hearing to be held not less than ten days after the service of such notice.

(Code 1967, § 16-17; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-164. - Removal of flammable liquids from vehicles.

All gasoline and other flammable liquids shall be completely drained and removed from any vehicle intended for junk, salvage or spare parts before the vehicle is placed in any junkyard or automotive wrecking and salvage yard.

(Code 1967, § 16-18; Ord. No. 1401, § 2, 5-24-73; Ord. No. 3250, § 1, 11-12-81)

Sec. 82-165. - Fencing required.

- (a) Every junkyard or automotive wrecking and salvage yard shall be completely surrounded and enclosed by an opaque fence or wall at least six feet in height.
- (b) Section 82-166 shall not apply to any business of this character being operated, licensed by the city and maintained in the city, until and unless there is any replacement or substantial repair to the fence.

(Code 1967, § 16-19; Ord. No. 1401, § 2, 5-24-73; Ord. No. 5013, § 1, 5-26-88)

Sec. 82-166. - Construction, maintenance of fence or wall.

- (a) All fences required by section 82-165 shall be constructed of any one of the following materials:
 - (1) Redwood;
 - (2) Rough cedar;
 - (3) Pressure treated lumber;
 - (4) Chain link;
 - (5) Brick;
 - (6) Brick columns with any one of the materials listed in subsections (a)(1) through (5) of this section;
 - (7) Heavy metal with a baked enamel finish; or
 - (8) Concrete.
- (b) Plywood and corrugated metal are prohibited.
- (c) Chainlink fences shall be constructed of galvanized chain link with wood or metal slats run through all links of the chainlink fence.

- (d) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (e) All fences or walls shall be constructed in compliance with all applicable provisions of the building code.
- (f) Any replacement or substantial repair shall be constructed in accordance with this section.

(Code 1967, § 16-20; Ord. No. 1401, § 2, 5-24-73; Ord. No. 5013, § 2, 5-26-88)

Sec. 82-167. - Appearance.

Any person granted a license as provided in this division shall keep the premises used in the operation and maintenance of that business in a neat and orderly condition. Junk, junked or wrecked automobiles or parts thereof or material of any character may not be stacked above the height of the fence constructed and may not be displayed, stored or worked on outside such fence.

(Code 1967, § 16-21; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-168. - Use of wall, door of building as part of fence or wall.

Any part of a fence or wall required by section 82-165 may consist in whole or in part of a solid wall and door of any completely enclosed building on the premises, if such wall or door meets all construction requirements set forth in this division.

(Code 1967, § 16-22; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-169. - Gates.

Openings in the prescribed enclosures which are necessary to permit reasonable access to the junkyard or automotive wrecking and salvage yard shall be equipped with a solid gate, constructed and maintained in accordance with the requirements for a fence or wall as provided in this division. Such gate shall be closed and securely locked at all times except during normal daytime business hours.

(Code 1967, § 16-23; Ord. No. 1401, § 2, 5-24-73)

Sec. 82-170. - Arrangement of vehicles, parts and materials.

All automotive vehicles, parts and other materials located in or on the premises of any junkyard or automotive wrecking and salvage yard shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, health, police and building officials.

(Code 1967, § 16-24; Ord. No. 1401, § 2, 5-24-73)

Secs. 82-171—82-200. - Reserved.

ARTICLE IV. - GARAGE SALES

Sec. 82-201. - Definitions.

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

Advertise means to seek to attract or direct the attention of the public to and including, but not limited to, goods, activities, information or messages.

Garage sale means the offering for sale of personal or household property belonging to or in the possession of the person conducting the sale. The term includes all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "flea market sale," "moving sale," "estate sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

(Ord. No. 10,840, § 1, 2-28-08; Ord. No. 11,183, § 1, 9-10-09)

Sec. 82-202. - Permits.

(a) Garage sale permit.

- (1) It shall be unlawful for any person to conduct a garage sale in the city without first filing with the planning and development services department the information specified in subsection 82-203(a) of this article and obtaining a permit to do so, to be known as a "garage sale permit."
- (2) The fee for a garage sale permit shall be \$10.00.
- (3) A garage sale permit shall be issued to any one person or location only once within a six-month period and such permit shall be issued for either
 - a. Three consecutive calendar days, or
 - b. Two calendar days within an eight-day period.
- (4) Each permit issued under this section must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the permitted sale.
- (5) A person who has been issued a garage sale permit shall be allowed to erect a maximum of seven signs advertising the garage sale; provided that each such sign meets the requirements specified in subsection (b) of this section.

(b) Garage sale signs.

- (1) No garage sale sign shall be permitted to remain in a public place for a period longer than four days. Signs may be erected one day before the date of the permitted sale and must be removed on the last day of the permitted sale.
- (2) In addition to the requirements specified in this article, garage sale signs, which may be located within the rights-of-way along city streets, must comply with all of the requirements of section 118-138, except for the length of time for which a sign may be displayed, which shall be governed by this section.
- (3) Each sign shall have prominently displayed thereon information from the garage sale sign permit, including, but not limited to the permit number, the term of the permit and the sign number.

(Ord. No. 10,840, § 1, 2-28-08; Ord. No. 10,858, § 1, 3-13-08; Ord. No. 11,183, § 2, 9-10-09)

Sec. 82-203. - Applications.

- (a) Garage sale permit application. A person desiring to acquire a garage sale permit shall apply on a form supplied by the planning and development services department. The garage sale permit application shall, at a minimum, contain the following:

- (1) Name of each person conducting the garage sale;
 - (2) Name of owner of each property on which the garage sale is to be conducted and consent of owner if applicant is other than the owner;
 - (3) Location(s) at which the garage sale is to be conducted;
 - (4) Number of days of the garage sale;
 - (5) Date of the proposed garage sale;
 - (6) Date, location and nature of any garage sale participated in or conducted by each person named in subsection (a)(1) of this section or held on the proposed premises listed in subsection (a)(3) of this section during the past 12-month period;
 - (7) The number of signs proposed to be placed;
 - (8) The location of each proposed garage sale sign by either address or location shown on a map drawn to scale.
 - (9) An affirmative statement that the property to be sold at the garage sale is personal property owned by the applicant, was neither acquired nor consigned for the purpose of resale, and is not from an inventory or stock of goods in trade; and
 - (10) A sworn statement or affirmation by the applicant that the information provided in the application is true and correct.
- (b) One garage sale permit may cover multiple locations if all such locations are within the same subdivision and is organized by a homeowners' association or other similar entity.

(Ord. No. 10,840, § 1, 2-28-08; Ord. No. 10,858, § 1, 3-13-08; Ord. No. 11,183, § 3, 9-10-09)

Sec. 82-204. - Persons and sales excepted.

- (a) The provisions of this article shall not apply to or affect the following persons or sales:
- (1) Persons selling personal property or goods pursuant to an order or process of a court of competent jurisdiction;
 - (2) Persons acting in accordance with their powers and duties as public officials;
 - (3) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which do not exceed five in number; or
 - (4) Persons conducting a garage sale on property, which is:
 - a. Used for commercial purposes and not located in a SFE, SF1, SF2, MF1, MF2, MF3, NC, UN, NSC, LC or ACE zoning district; or
 - b. Located in a MU, GC, LI, HI zoning district and is not used for residential purposes.
- (b) If a garage sale is not held on the dates for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions and the permit holder desires to hold the permitted sale on an alternative date, then the permit holder shall submit an affidavit within five days of the first day of the scheduled sale to this effect to the planning and development services department, and the city may, but shall not be required to, issue another permit to the applicant for a garage sale to be conducted at the same location within 30 days from the date when the first sale was to be held. No additional permit fee shall be required.

(Ord. No. 10,840, § 1, 2-28-08; Ord. No. 11,183, § 4, 9-10-09; Ord. No. 11,866, § 22, 2-23-12)

Sec. 82-205. - Revocation and refusal of permit.

- (a) Any permit issued under this section may be revoked or any application for issuance of a permit may be refused by the city if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statement.
- (b) If any individual is convicted of an offense under this section, the city may cancel any existing garage sale permit held by the individual convicted and shall not thereafter issue to such individual another garage sale permit for a period of one year.

(Ord. No. 10,840, § 1, 2-28-08)

Sec. 82-206. - Unlawful sales.

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this article, property from an inventory or stock in trade or goods on consignment, or property other than goods as described in section 82-201.

(Ord. No. 10,840, § 1, 2-28-08)

Sec. 82-207. - Penalty.

Any person violating this article shall upon conviction be punished as provided in section 1-14.

(Ord. No. 10,840, § 1, 2-28-08)