

COLOMA CHARTER TOWNSHIP
BERRIEN COUNTY, MICHIGAN

ORDINANCE No. _____

(Pawnbrokers, Second Hand Dealers & Junk Dealers)

Adopted: _____, 2010

Effective: _____, 2010

An ordinance to regulate the licensing and operations of Pawnbrokers, Second Hand Dealers and Junk Dealers within the Charter Township of Coloma, Berrien County, Michigan, and to prescribe penalties for violations of the same.

**THE CHARTER TOWNSHIP OF COLOMA
BERRIEN COUNTY, MICHIGAN**

ORDAINS:

Section I. Title

This ordinance shall be known and cited as the Coloma Charter Township Pawnbrokers, Second hand Dealers, and Junk Dealers Ordinance.

Sections II. Definitions

- A. "Pawnbroker" means a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.
- B. "Second hand dealer" or "junk dealer" means any person, corporation, or member or members of a copartnership or firm whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Second

hand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

- C. "Internet drop-off store" means a person, corporation, or firm that contracts with other persons, corporations, or firms to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in 1917 PA 273, MCL 446.201(1)(3).
- D. "Automotive recycler" means a person who engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.
- E. "Industrial scrap" means materials that are a direct product or by-product of any form of manufacturing, shaping, or cutting process from a person, company, corporation, copartnership, or firm whose principal business is the manufacturing, shaping, or cutting of materials at a fixed place of business.
- F. "Scrap processor" means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or glass, into prepared grades of products suitable for consumption by recycling mills, foundries, and other scrap processors.

Section III. License

- A. The Charter Township of Coloma may grant to any person, corporation, copartnership, or firm, a license authorizing that person, corporation, copartnership, or firm to carry on the business of a pawnbroker, second hand dealer, or junk dealer subject to the provisions of this ordinance.
- B. It shall be unlawful for any person, corporation, copartnership, or firm to carry on the business of a pawnbroker, second hand dealer, or junk dealer, whether as owner, employee or otherwise within the boundaries of Coloma Charter Township without first obtaining a license issued in accord with the provisions of this ordinance.
- C. An internet drop-off store in compliance with the following conditions is exempt from licensure as a pawnbroker, second hand dealer, or junk dealer pursuant to this ordinance:
 - 1. Has a fixed place of business within this state except that he or she exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.
 - 2. Has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, which website shall be searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.
 - 3. Maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, which records shall contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

4. Provide the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.
 5. Within 24 hours after a request from a local law enforcement agency, provide an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The provision of information shall be in a format acceptable to the local law enforcement agency but shall at least be in a legible format and in the English language.
 6. Provide that payment for the personal property or other valuable thing is executed by means of check or other electronic payment system, so long as the payment is not made in cash. No payment shall be provided to the seller until the item is sold.
 7. Immediately remove the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.
- D. A person engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself is exempt from licensure as a pawnbroker, second hand dealer, or junk dealer under this ordinance.
- E. This ordinance does not exempt a person purchasing or selling articles of nonferrous metals from compliance with the nonferrous metal regulatory act.
- F. Licensure under either or both of the following acts does not exempt a person from obtaining a license under this act:
1. The precious metal and gem dealer act, 1981 PA 95, MCL 445.481 to 445.492.
 2. 1917 PA 350, MCL 445.401 to 445.408.
- G. The license shall designate the particular place where that person, corporation, copartnership, or firm shall carry on that business. The business shall be conducted only in the place designated in the license.
- H. The license shall be for the period of 1 year from date of issuance unless sooner revoked for cause and is not transferable.
- I. Before issuance of a pawnbroker license, the applicant shall pay to the treasurer of the Charter Township of Coloma an annual license fee in the amount \$50 and give a bond to the Charter Township of Coloma, in the penal sum of \$3,000.00, with at least 2 sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of this act. The governmental unit shall approve the bond.
- J. Before issuance of a second hand dealers or junk dealers license the applicant shall pay to the treasurer of the Charter Township of Coloma an annual license fee in the amount of \$50.
- K. The Township may inspect the premises of a licensed second hand dealer or junk dealer anytime during normal business hours.
- L. Licenses shall only be granted for premises that are located in a commercial or business zone.

Section IV. Applications

- A. Application for a second hand dealer's license shall be made in writing to the Township Clerk, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend or revoke said licenses as set forth in this chapter. Applications shall be on forms supplied by and to be filed with the Township Clerk. Such application, which

shall be signed and dated by the applicant or, if the applicant is not an individual, by an authorized representative. The applicant must prove his/her identification by means of a Michigan driver's license or Michigan identification card. The application shall contain the following minimum information, plus any other information deemed necessary by the Township Clerk:

1. The name and any alias used, and address and telephone number of the applicant and all employees, officers, partners or agents of the applicant.
 2. The location where the business is to be carried on plus any subsidiary offices and a brief description of the items to be sold.
 3. The applicant's criminal record, if any, and if the applicant is not an individual, the criminal record, if any, of the partners or officers of the corporation.
 4. The criminal record, if any, of any employees of the applicant.
 5. The applicant's prior experience as a second hand or junk dealer.
 6. An authorization for the Township Clerk and/or the Coloma Township Police Department to carry out a background investigation on the applicant and all employees, officers, partners or agents of the applicant.
 7. A statement as to whether the applicant, officers, partners or agents thereof have ever had any license required by the Charter Township of Coloma or any other governmental entity revoked, suspended, or denied and the reasons for said action;
 8. A statement that the information provided is the true and accurate and that, if a license is granted, the applicant will abide by all applicable ordinances and statutes.
- B. All licenses are applicable to the following conditions:
1. The applicant shall not engage in the business of a pawnbroker, second hand dealer, or junk dealer at any time after the license has expired, without renewal, without having been reissued, or at any time when the license is suspended or revoked.
 2. No license shall be issued or renewed unless and until the applicant and any and all employees, officers, partners, or agents of the applicant shall, if deemed necessary by the Coloma Township Police Department, submit to being fingerprinted and photographed as part of the background investigation.
- C. The Clerk shall deny an application for a license if the applicant has failed to pay real or personal property taxes assessed for which the penalties or interest have begun to accrue or failed to pay other debts owed to the Charter Township of Coloma.
- D. The Clerk shall deny an application for a license if the applicant or any employees, officers, partners, or agents have been arrested or convicted in the past ten years of any violation of this ordinance, or a substantially similar ordinance or law, or any criminal law involving theft, fraud, dishonesty, receipt of stolen property, or embezzlement.
- E. If an application or renewal is denied the Clerk shall provide written notice via first class mail. The denial shall state the reasons for denial. Applicants may reapply at anytime by submitting a new application and fee.
- F. In the event that an application or renewal is denied the applicant may request a hearing before the Coloma Township Board, in writing, within ten days to appeal. The Coloma Township Board shall have final authority of license status.

Section V. Renewal and New Employees

- A. Any person, corporation, copartnership, or firm who has already obtained a pawnbroker, second hand dealer, or junk dealer license pursuant to this ordinance must renew the license one year from the date of approval.

- B. A renewal application shall be completed and submitted, along with the application fee, not less than 30 days from the date of expiration.
- C. Approval or denial of the renewal will be sent, in writing, prior to the expiration of the existing license.
- D. Any renewal application received less than 30 days from the date in expiration may result in temporary suspension of the pawnbroker, second hand dealer, or junk dealer license until such time as the application is approved.
- E. Any pawnbroker, second hand dealer, or junk dealer licensed under this ordinance shall inform the Township, in writing, of any employee is discharged or if there is any change in officers, partners or agents.
- F. Any pawnbroker, second hand dealer, or junk dealer licensed under this ordinance shall inform the Township, in writing, of any employee they intend to hire after the application process or between license renewals. The license holder shall forward the full name, date of birth, address, and social security number.
- G. Any additional employees must pass a background check with the Coloma Township Police Department, subject to the conditions above, prior to beginning employment.

Section VI. Second hand and Junk Dealer Requirements

- A. A second hand dealer or junk dealer shall post in a conspicuous place in or upon its place of business a sign having its name and occupation.
- B. A second hand dealer or junk dealer shall post in a conspicuous place in the business a copy of the license received from the Township.
- C. A second hand or junk dealer shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of a local law enforcement agency and the Michigan state police, in which shall be written or entered in the English language at the time of the purchase or exchange of any article a description of the article, and all of the following:
 - 1. The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the person from whom the article was purchased and received. The second hand dealer or junk dealer shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.
 - 2. The day and hour the purchase or exchange was made.
 - 3. The location from which the item was obtained.
 - 4. Payment for an item shall be made only by check or by an electronic payment system. The record shall indicate the method of payment.
- D. The articles purchased or exchanged shall be retained by the purchaser for at least 15 days before disposing of them, in an accessible place in the building where the articles are purchased and received. A tag shall be attached to the articles in some visible and convenient place, with the number written thereupon, to correspond with the entry number in the book or other record.
- E. The purchaser shall prepare and deliver on Monday of each week to the Coloma Township Police Department, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, containing a description of each article purchased or received during the preceding week, the hour and day when the purchase was made, the description of the person from whom it was purchased, and a copy of the documentation required under section 4 regarding the person from whom it was purchased.

The statement shall be verified in a manner acceptable to the Coloma Township Police Department.

- F. This section does not apply to old rags, waste paper, and household goods except radios, televisions, record players, and electrical appliances and does not require the purchaser to retain articles purchased from individuals, firms, or corporations having a fixed place of business after those articles shall have been reported.
- G. No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this act from any person between the hours of 9 p.m. and 7 a.m., nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by said second hand dealer or junk dealer to be a thief or any associate of thieves or receiver of stolen property or from any person he has reason to suspect of being such.

Section VII. Pawnbrokers

- A. A pawnbroker shall keep a record in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, that includes a description of the article, a sequential transaction number, any amount of money loaned on the article, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the attorney for Coloma Township, the Coloma Township Police Department, the Berrien County prosecuting attorney, or the department of state police.
- B. Upon the receipt of any article of personal property or other valuable thing by way of pawn, the pawnbroker shall make a permanent record of the transaction on a form provided by the pawnbroker that substantially complies with the form described in 1917 PA 273, MCL 446.205(4). Each record of transaction shall be completed in duplicate by the pawnbroker, legibly in the English language, and shall contain all applicable information required to complete the record of transaction form under 1917 PA 273, MCL 446.205(4). This subsection does not prohibit the use and transmission of the information required in the record of the transaction by means of computer or other electronic media as permitted by Coloma Township Police Department.
- C. The pawnbroker shall retain a record of each transaction and, within 48 hours after the property is received, shall send 1 copy of the record of transaction to the Coloma Township Police Department.
- D. The record of transaction form shall be 8-1/2 inches by 11 inches in size and shall comply with the form as described in 1917 PA 273, MCL 446.205(4).
- E. A pawnbroker shall make daily, except Saturday and Sunday, a sworn statement of his or her transactions, describing the articles received, and setting forth the name, residence, and description of the person from whom the articles were received, to the Coloma Township Police Department.
- F. A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any article a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in his or her book by section VII (E) of this ordinance. A charge shall not be made or received by the pawnbroker for the entry, memorandum, or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in 12-point type the following: "If interest or charges in excess of 3% per month, plus storage charges provided in this document, are asked or received, this loan is void and of no

effect; and the borrower cannot be made to pay back the money loaned, any interest on the loan, or any charges or any part of the charges, and the pawnbroker loses all right to the possession of the goods, article, or thing pawned, and shall surrender the item to the borrower or pawner upon due demand for the item.”.

- G. A licensed pawnbroker may charge upon any loan a rate of interest not to exceed 3% per month and is not required to accept any interest less than 50 cents on a single loan. A pawnbroker may also charge \$1.00 per month or fraction of a month for the storage of unencumbered personal property under any single pledge or pawn.
- H. A pawnbroker may charge \$1.00 per month or fraction of a month for a usage fee for unencumbered personal property pawned or pledged and used by the pawner during the term of the pawn or pledge. A usage fee charged under this subsection is not considered interest.
- I. A pawnbroker or the pawnbroker's agent or employee shall not charge or receive interest on the loan in excess of the amounts provided for in this act.
- J. Interest on any loan is not payable in advance and shall be computed on unpaid monthly balances without compounding.
- K. A pawnbroker is not entitled to any examination fee and shall not make any charge in excess of the amounts provided for in state statute.
- L. Title to the item pledged or pawned vests in the pawnbroker upon the expiration of 3 months or of any period beyond 3 months agreed upon by the parties if the borrower has not paid the debt, interest, and charges on the item pledged or pawned.
- M. A pawnbroker shall not sell any pawn or pledge until the item has remained in his or her possession for at least 3 months.
- N. If at any time before the sale of the item pledged or pawned the borrower pays or tenders to the pawnbroker the debt and interest and charges on the item, that payment or tender reinvests the pawner with the title and right of possession to the property pledged.
- O. A pawnbroker may agree in writing, after pledged or pawned unencumbered personal property has been deposited with the pawnbroker, to allow the pawner to maintain possession and use of the pledged or pawned unencumbered personal property during the term of the pawn or pledge transaction. The agreement may also include the payment of a usage fee under 1917 PA 273, MCL 446.209. A pawnbroker may take possession of the pledged or pawned property pursuant to section 9609 of the uniform commercial code, 1962 PA 174, MCL 440.9609.
- P. A pawnbroker shall not deface, scratch, obliterate, melt, separate, or break into parts any article or thing received by him or her in pawn, or otherwise or in any manner do, cause, or suffer to be done by others, anything that destroys or tends to destroy the identity of the article or thing, or tends to render the identification of the thing or article more difficult.
- Q. A pawnbroker shall not accept by way of pledge, pawn, purchase, or exchange any article or thing that customarily bears a manufacturer's serial number or other identifying insignia unless the number or insignia is plainly visible on the article or thing.
- R. A pawnbroker shall not receive for pawn any article from any person under 18 years of age or a person the pawnbroker suspects as having stolen the article to be pawned.
- S. No license granted under the provisions of this ordinance shall authorize any business to be transacted by pawnbrokers on the first day of the week commonly called Sunday.
- T. If any person shall be aggrieved by the conduct of any such licensed pawnbroker, and shall recover judgment against him therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon said judgment, maintain an action in his own name upon the bond of the said pawnbroker in any court having jurisdiction of the amount of said judgment remaining unsatisfied.

- U. The said bond shall be in double the value of the property claimed, with such surety as such court shall approve, and shall be given to the person from whose possession the property was taken, with condition that the obligor so claiming the same will pay all the costs and damages that may be recovered against him by the obligee in any suit brought within 10 days from the date of such bond.

Section VIII. Suspension and Revocation

- A. No license shall be revoked until after a hearing before the Coloma Township Board to determine just cause for such revocation. The Township Clerk may order any license to be suspended pending such hearing and it shall be unlawful for any license holder to carry on business as a pawnbroker, second hand dealer, or junk dealer until the suspended license has been reinstated.
- B. Notice of such a hearing shall be given in writing not less than five days prior to the date of the hearing.
- C. The notice shall contain the grounds for the complaint as well as the time and place where the hearing shall be held.
- D. The written notice may be given in person or mailed to the licensee at the business and/or residential address provided on the application.
- E. A pawnbroker, second hand dealer, or junk dealer license may be suspended for any term up to one year at the discretion of the Coloma Township Board.
- F. A pawnbroker, second hand dealer, or junk dealer license may be revoked at the discretion of the Coloma Township Board.

Section IX. Criminal Violation

- A. Nothing in this ordinance shall preclude any law enforcement officer having jurisdiction within Coloma Township from seeking criminal charges against any person, copartners, officers, agents, or employees engaged in business as a pawnbroker, second hand dealer, or junk dealer for violations of any state or federal law.
- B. Criminal charges brought against any person, copartners, officers, agents, or employees of a pawnbroker, second hand dealer, or junk dealer for violation of 1917 PA 350, MCL 445.401-445.408 or 1917 PA 273, MCL 446.201-446.219 shall be considered grounds for denial of an application or renewal and shall be considered grounds for suspension or revocation of a license granted under this ordinance.