

## **Secondhand Motor Vehicles ,Auto Wreckers and Towing Operators 93-1**

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### **CHAPTER 93**

### **SECONDHAND MOTOR VEHICLES, AUTO WRECKERS AND TOWING OPERATORS**

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**93-1. Definitions.** In this chapter:

**1. AUTO WRECKER** means every person who buys any motor vehicle for the purpose of dismantling or disassembling, or who dismantles or disassembles any such motor vehicle for the purpose of dealing in the parts thereof.

**2. BICYCLE** means every vehicle propelled by the feet acting upon pedals and having wheels any 2 of which are not less than 14 inches in diameter.

**3. BUSINESS** means engaging in activities for the purpose of earning a livelihood or a profit therefrom on a full or part time basis.

**4. MOTOR VEHICLE** has the meaning given in s. 340.01(35), Wis. Stats., as amended.

**5. RETAIL** means the business of buying and selling, exchanging or dealing motor vehicles and bicycles and used or secondhand parts of motor vehicles or bicycles and used or secondhand tires and batteries to the public, including businesses operated on lots licensed for that purpose.

**6. SECONDHAND** means previously owned by a member of the general public on a retail basis.

**7. USED** means something which has endured use.

**8. WHOLESALE** means the business of buying and selling, exchanging or dealing

motor vehicles and bicycles and used or secondhand parts of motor vehicles or bicycles and used or secondhand tires and batteries to a licensed retailer or to another person who holds a permit or license or to the end user, but not operating a lot licensed for that purpose.

9. Towing Operator means every person or business who tows vehicles from private property on behalf of the agent or owner for that property.

**93-3. Purpose.** It is determined and declared that it is necessary to license and regulate businesses specified in s. 93-5-2 for purposes of minimizing any adverse impact that such businesses may have on the public health, safety and welfare of the neighborhood in which such businesses are located. It is further determined and declared that regulations in this chapter relating to recording of sales are specified for purposes of suppression and prevention of crime. It is further declared and determined that the provisions of this chapter are supplemental to statutory provisions dealing with businesses licensed in this chapter.

**93-5. License Required.**

**1. REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of towing, buying, selling, exchanging or dealing in used or secondhand motor vehicles and bicycles, and used or secondhand parts of motor vehicles and bicycles, and used or secondhand tires and batteries, or engaging in the business of an auto wrecker without first having obtained a license.

**2. CLASSIFICATION.** Licenses issued pursuant to this chapter shall be divided into the following classes:

a. Used Bike, Tire and Battery

License. A used bike, tire and battery licensee shall buy, sell, exchange or deal in used or secondhand bicycles, bicycle parts, tires and batteries, either retail or wholesale.

b. Secondhand Motor Vehicle Dealer.

A secondhand motor vehicle dealer's licensee shall buy, sell, exchange or deal in used or secondhand motor vehicles and motor vehicles parts, either retail or wholesale.

c. Used Motor Vehicle Dealer - Parts

Only License. A used auto dealer - parts only licensee shall buy, sell, exchange or deal exclusively in used or secondhand motor vehicle parts, either retail or wholesale.

d. Auto Wrecker - An auto wrecker

licensee shall buy motor vehicles for purposes of dismantling or disassembling vehicles for the purpose of dealing in the parts thereof.

e. Vehicle Towing- from property within the City of Milwaukee. If the storage location is located within the City of Milwaukee, the storage security and location requirements of this section will apply.

**3. EXCEPTION.** Licensees applying for or holding a license issued under sub. 2-b to d are not required to obtain a used bike, tire and battery license.

**93-7. Application. 1. TO BE FILED.** Written application for licenses issued under this chapter shall be filed with the city clerk.

**2. CONTENTS OF APPLICATION.**

Each application for a license shall state:

- a. The type of license applied for.
- b. Whether the application is for wholesale or retail.
- c. The address and location of the premises to be licensed.
- d. The name and home address of the applicant.
- e. The date of birth of the applicant.
- f. If the applicant is a corporation or limited liability company:
  - f-1. The names, home addresses and dates of birth of all officers.
  - f-2. The names and home addresses of managers or persons in charge, to be designated by the applicant.
  - f-3. The state of incorporation, if applicable.
  - f-4 Insurance and Bonding (*These requirements are to be determined*)
- g. Whether the applicant has ever had a license relating to the activities licensed in this chapter denied, not renewed, suspended or revoked, with a brief statement of the circumstances associated with such event, and the jurisdiction in which such event occurred. This information shall also include a record of any actions from the state departments of transportation and financial institutions relating to suspensions, revocations, forfeitures and warnings imposed by these departments relating to the operation of any automotive sales business by the applicant.
- h. A completed plan of operation on a form provided by the city clerk. The plan of operation shall require:
  - h-1. The planned hours of operation of the premises.
  - h-2. What plans, if any, the applicant has to insure that all motor vehicles associated with the business will be stored on the licensed premises; that all maintenance and repair work related to these vehicles will be confined to the licensed premises, and will not violate any code provisions relating to littering of the public right-of-way.
- i. Such other reasonable and pertinent information as the common council may

from time to time require.

**3. FINGERPRINTING.** All applicants shall be fingerprinted as provided in s. 85-21-1.

**4. TRUTH OF STATEMENTS AND AFFIDAVITS; PENALTY.**

a. All matters submitted in writing to the city by any applicant or licensee pertaining to licenses issued under this chapter shall be true. Any person who submits in writing any untrue statement or affidavit to the city in connection with any such license or application shall be subject to a forfeiture of not more than \$500 or in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county for not more than 20 days; and that license, if granted, shall be subject to revocation and no license of any kind or nature issued under this chapter shall thereafter be granted to such a person for a period of one year from the date of such revocation.

b. There shall be contained on each individual application of any kind information to the effect that a penalty is provided for any false statement or false affidavit supplied by any such applicant or licensee.

**5. INVESTIGATION.** Applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall investigate and report their findings within 15 days to the licensing committee.

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**93-9. Committee Action.**

**1. NOTICE.** a. The licensing committee shall hold a hearing on whether or not to issue each new license. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 5 working days' notice of the hearing.

b. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the notice shall also be served upon the owner of the premises so that the owner has at least 5 working days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this paragraph related to the notice to the applicant.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

b-5. If it appears for the first time at the hearing that there will be objections, then the matter will be laid over until the next meeting, prior to which proper notice will be given.

**2. HEARING.** a. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

b. A due process hearing shall be conducted in the following manner:

b-1 All witnesses will be sworn in.

b-2. The chair shall ask those opposed to the granting of the license to proceed first.

b-3. The applicant shall be permitted an opportunity to cross-examine.

b-4. After the conclusion of opponents' testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-5. Committee members may ask questions of witnesses.

b-6. Both proponents and opponents shall be permitted a brief summary statement.

**3. RECOMMENDATIONS.**

a. The recommendations of the committee regarding the applicant shall be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

a-1. Whether or not the applicant is 18 years of age or older.

a-2. Whether the applicant has made a material misstatement in application for the license.

a-3. Whether or not the applicant meets the statutory and municipal requirements.

a-4. The appropriateness of the location and premises to be licensed. Probative evidence relating to these matters may be taken from the

plan of operations submitted pursuant to s.93-7-2-h.

a-5. Whether such location will create undesirable neighborhood problems.

a-6. Whether there is an over concentration of businesses licensed under ch. 93 in the neighborhood such that the concentration will have an adverse impact upon the public health, safety and welfare of the neighborhood. Among factors to be considered in terms of impact are litter, noise and traffic.

a-7. The applicant's record in operating similarly licensed premises based on application information submitted pursuant to s. 93-7-2-g.

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a-8. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity, other than those specified in s. 218.0116, Wis. Stats., as amended.

a-9. Whether or not the applicant has had an application denied, pursuant to s. 218.0116, Wis. Stats., as amended.

a-10. Any other factors which relate to the public health, safety and welfare of the community.

b. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the owner of the premises shall have the same rights related to a due process hearing provided to the applicant under this subsection.

**4. DISQUALIFICATION.** Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**5. ISSUANCE OF LICENSE.** The city clerk shall, whenever a license shall have been granted by the common council and the applicant shall have produced and filed with the city clerk a receipt showing payment of the sum required for such license to the city treasurer, prepare and deliver to the applicant a license in accordance

with this chapter. The license shall specify the specific premises where the business of buying, selling, exchanging or trading in used or secondhand motor vehicles and bicycles, or used or secondhand parts of motor vehicles and bicycles is to be conducted, whether business is conducted retail or wholesale, and if there is a parts only restriction. It shall not be issued to the benefit of any person other than the licensee therein named. It shall not authorize the carrying on of any business other than the business of storing buying, selling, exchanging or trading in used or secondhand motor vehicles and bicycles, or used or secondhand parts of motor vehicles and bicycles in any other place or premises than that specified in the license. It shall bear the signature of the city clerk and the corporate seal of the city.

**6. TERM AND FEE.** The fee for each license shall be payable for the entire license period. See ch. 81 for the required license fee.

**93-11. Renewal, Non-renewal, Revocation or Suspension of License. 1. APPLICATION FOR RENEWAL.** Application for renewal of a license shall be made to the city clerk and forwarded to the licensing committee for its recommendation to the common council after reports, to be issued within 15 days, by the police department, the department of neighborhood services and the health department indicating that the applicant still meets all of the licensing qualifications.

**2. REVOCATION OR SUSPENSION.**

Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

**3. DUE PROCESS AND COMMON COUNCIL REVIEW.** If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

**4. GROUNDS FOR NON-RENEWAL, REVOCATION OR SUSPENSION.** The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may

include evidence of:

a. Failure of the licensee to meet the municipal qualifications or any of the terms of this chapter.

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b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employes, or patrons other than those specified in s. 218.0116, Wis. Stats., as amended.

c. Neighborhood problems due to management or the appropriateness of the location and premises where the principal business or additional storage yard is located.

d. Failure to abide by the plan of operation submitted pursuant to s. 93-7-2-h.

e. A showing that the premises where the principal place of business or additional storage yard is located has been the source of one or more of the following: disturbance of the peace; sale or purchase of stolen goods; excessive littering; loud noise at times when the operation is open for business; traffic violations.

f. If the licensee is a firm, corporation or limited liability company, it shall be sufficient cause for denial, suspension or revocation of a license that any officer, director, trustee or manager of the firm, corporation or limited liability company, or any member in case of a partnership, has been guilty of any act or omission which would be cause for non-renewal, suspension or revocation of a license to that party as an individual. Each licensee shall be responsible for the acts of any or all of his or her employes while acting as his or her agent.

g. Any other factor or factors which reasonably relate to the public health, safety and welfare or which demonstrate that the premises where the principal place of business or additional storage yard is located has generated undesirable secondary effects.

h. If insurance or bonding has lapsed or is unobtainable

i. Non-payment of state mandated fees

**93-15. Changes in Business Operations.** If after a license has been granted or issued pursuant to this chapter, a licensee wishes to substantially deviate from the business operations (from retail to wholesale, or wholesale to retail) that were listed on the original application, the licensee must file a sworn, written request with the city clerk which states the



change in the type of business operation. No change in business operation shall take place until the common council has approved the request. The common council's approval may be given only if it determines that the new type of business operation is basically compatible with the normal activity of the neighborhood in which the licensed premises is located.

**93-17. Transfer of License or Change of Name.** See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

**93-19. Record to be Kept on Trade-ins.** Any person, firm or corporation licensed under this chapter whenever a secondhand or abandoned motor vehicle is taken in trade as part of a transaction, shall maintain records of the transaction pursuant to ch. Trans 138, Wis. Adm. Code, as amended. With respect to bicycles taken in trade as part of a transaction, records shall be maintained pursuant to s. 102-12 and all records referenced in this section shall be made available to the police department.

**93-21. Record to be Kept on Sales.** Any person, firm or corporation licensed under this chapter to buy, sell or exchange or trade in secondhand or abandoned motor vehicles shall furnish, upon the sale of a secondhand motor vehicle the information required pursuant to ch. Trans 139, Wis. Adm. Code, as amended. With respect to sale of used bicycles, a licensee shall furnish information, to the purchaser on the serial number, factory number, frame number, color, type, model, frame size, wheel size, name of brake and other marks of identification.

**93-23. Auto Wrecker Record Regulations.**

**1. RECORD OF PURCHASES.AND TOWING ACTIVITIES**

a. Every licensed auto wrecker shall keep a log approved as to type and form by the chief of police with certification of such approval endorsed therein over the signature of a member of the police department designated for that purpose by the chief of police, in which shall be recorded, at the time of each purchase, a full, true, and complete description of the automobile or wrecked automobile purchased or received. The record kept under the provisions of s. Trans 136.03, Wis. Adm. Code, as amended, shall be satisfactory compliance under this section and

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shall at reasonable times be open to the inspection of the chief of police, or any member of the police force designated by the chief of police for such purpose, and exchange of any

automobile or wrecked automobile shall be regarded as a purchase and sale of the respective automobile or wrecked automobile exchanged.

b. Every auto wrecker shall keep a log approved as to type and form by the chief of police with certification of such approval endorsed therein over the signature of a member of the police department designated for that purpose by the chief of police, in which shall be recorded, at the time of each purchase, a general description of every purchase made of any used motor vehicle parts or accessories after buying or receiving the same, except that no such reports shall be required for purchases from licensed dealers. Such report shall contain a full, true, and complete description of said motor vehicle parts or accessories so purchased or received. Such report shall contain the name and address of the person from whom purchased or received, the make, motor number and serial number, if any, and manufacturer's name and number, if any, of such motor vehicle parts or accessories purchased or received. This record shall at reasonable times be open to the inspection of the chief of police or any member of the police force designated by the chief of police for such purpose, and exchange of any automobile or wrecked automobile parts or accessories shall be regarded as a purchase and sale of the respective automobile or wrecked automobile parts or accessories exchanged.

C. Every Tow Operator must maintain a log of all vehicles towed from private property that must contain:

- a. Date and time of tow request
- b. Date and Time of Tow
- c. Date and Time of required law enforcement notification and confirmation number where applicable
- d. Owner Notification dates and times as required by state statute
- e. Vehicle disposition information to include release date, release person, payment of release fees and payment amount
- f. If vehicle was deemed abandoned under state statute, all disposition data to include whether the vehicle was sold or recycled, buyer or recycler information

**2. REPORTS.** The chief of police shall designate the dates on which a photocopy of the records required in sub. 1-a shall be picked up or submitted to the police department. It shall be the duty of every auto wrecker to make out and deliver to the police department in the form provided for this purpose by the chief of police, a complete and correct copy of the records required by sub. 1-a of all purchases and tows coming into the wrecker's possession, together with the date when the same were received or purchased, an accurate and true description of the motor vehicle, the true

name of the person dealt with as nearly as known, as well as his or her place of residence and other description sufficient to identify the person.

### **3. GOODS HELD FOR**

**IDENTIFICATION.** The chief of police may, in his order discretion, cause any such article as is referred to in sub. 1 which he or she shall have reason to believe was sold, released to or exchanged by some person, other than the lawful owner thereof, to be held for the purpose of identification by its lawful owner for such reasonable length of time as the chief shall deem necessary.

### **4. NOT TO CREATE NUISANCE.**

None of the materials associated with the business of an auto wrecker or towing storage shall be sorted in a public street, alley or sidewalk. All materials shall be kept within a building or enclosure or site approved by the department of neighborhood services, fire department, police department and health department, unless the health department has delegated its authority under this subsection to the department of neighborhood services by a memorandum of understanding.

### **5. PURCHASE FROM MINORS**

**PROHIBITED.** No auto wrecker shall purchase or release any motor vehicle, for the purpose of dismantling, disassembling from, or relasing to any minor under 18 years of age without the written consent of the parent or guardian of such minor.

### **93-25. Spill Light Illumination from Lots Used for the Retail Sale of Motor Vehicles or Other Merchandise.**

**1. RESTRICTIONS.** All lights used to illuminate lots operated for the retail sale of, storage of motor vehicles or other merchandise shall be shielded and directed away from public streets and residential properties in such a way as not to create a glare into the public street or surrounding premises used for residential purposes, or to disturb the comfort of persons living across therefrom or on adjacent property. However, in no case shall such lighting exceed 2 horizontal foot-candles measured at a point on the ground at the lot line. The lights shall not be located less than 3 feet from any abutting property line. The lighting shall be

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extinguished not later than 10:00 p.m. each night except for security lighting, which shall not exceed 1.0 horizontal candles.

**2. EXCEPTIONS.** This section shall not apply to lots used for retail sales for a period of 30 days or less.

### **93-26. Use of Vehicle for Sale Certificates.**

No secondhand motor vehicle dealer licensed

under this chapter may apply for a certificate issued pursuant to s. 101-29 to leave a vehicle that is for sale on public property.

**93-27. No Sale on Sundays.** It shall be unlawful for any license holder to sell, barter, exchange, demonstrate or loan any motor vehicle, whether new or secondhand, on Sunday.

EXCEPTION: This provision shall not apply in the release of impounded vehicles.

**93-29. Penalty.** Any person, firm or corporation violating any provision of this chapter, except s.93-7-3, shall upon conviction thereof be subject to a forfeiture not more than \$500 per occurrence and, in default of payment, shall be committed to the county jail or house of correction of Milwaukee county for a period not to exceed 10 days.