

[TITLE VII  
BUSINESS AND TRADES

Chapter 70  
GENERAL LICENSE REQUIREMENTS

**70.100 License Required.** Except as provided in Section 70.101, no person shall engage in the operation, conduct or carrying on of any business, trade, profession, occupation or solicitation for business or monies within the City without first obtaining a license from the City Clerk of the City of Harbor Springs.

**70.101 Exemption for Certain Businesses.** A license shall not be required for any business, trade, profession or occupation which is operated from a residence, and which:

- (1) Does not have members of the public coming to the residence for purposes of transacting business; and,
- (2) Does not have signage on the residence or elsewhere indicating that a business is operated from the residence; and,
- (3) Does not involve the delivery or pick up of goods for sale or transfer beyond that customary for a residence; and,
- (4) Does not have employees, except the occupant or immediate family members of the occupant.

**70.102 Licensing Authority.** Unless otherwise provided in this Code, the City Clerk shall be the licensing authority of the City. Unless otherwise provided, the applications for any license authorized by Title VII of this Code shall be made to the City Clerk, upon forms provided by him, and subject to the conditions hereinafter set forth.

**70.103 Written Application Required.** Except for residential businesses exempted under section 70.101, each person desiring to conduct or carry on any other business, trade, profession, occupation or privilege within the City must submit an application, upon oath or

affirmation, to the City Clerk, on a form prepared by the City Clerk and modified from time to time by the City Clerk, that will include, at a minimum:

- (a) The name of the applicant.
- (b) The principals of the applicant, if the applicant is a corporation, limited liability company, partnership or other organization doing business under an assumed name.
- (c) The type, scope and precise nature of the type of business, trade, profession or occupation proposed.
- (d) The proposed location of the trade, profession or business of the applicant.
- (e) The length of time the applicant intends to conduct business at the proposed location.
- (f) The U.S. taxpayer identification number of the applicant.

**70.104 Determination of Type of License Required.** Based on the application submitted by the applicant, the City Clerk shall determine the type of license applicable to the proposed activity, and shall then determine whether the applicant qualifies for issuance of a license under the provisions of this Code.

**70.105 General Provisions Applicable to all Licenses.** The following provisions in this Chapter 70 shall apply to all license applications and licenses issued under this Title VII.

**70.106 General Conditions to all Licenses.** No license shall be issued unless the City Clerk shall affirmatively find that the proposed activity to be engaged by or on behalf of the applicant shall not:

- (1) Be contrary to the health, morals, safety or welfare of the public;
- (2) Involve activity that is unlawful or improper or fraudulent in nature.

**70.107 Licensee Defined.** Except as otherwise specifically provided in this Code, the term "licensee" shall mean and include any person to whom a license has been issued under any

provision of this Code and the employees or agents of such person.

**70.108 Investigation.** The City Clerk may refer any application for a license to the City Manager, the City Attorney, the Chief of Police, the Fire Chief, the Zoning Administrator, the County Building Inspector, or the State Health Department, or to any two (2) or more of them, for an investigation and recommendation on matters pertaining to the public safety, health or welfare which are or may be involved in the exercise of the license applied for, and the City Clerk may require the giving of fingerprints and such other information as may be necessary to establish the identity of the applicant. In addition, the City Clerk shall determine whether the proposed activity is permitted under the Zoning Code of the City at the location proposed.

**70.109 License Year.** Unless otherwise provided in the Code provision requiring a license, the license year of the City shall begin on the first Tuesday in May in each year, and shall terminate on the first Tuesday in May of the following calendar year. Any annual license, issued between March 30th and the first Tuesday in May of any year, shall expire on the first Tuesday in May of the calendar year next following issuance thereof. In all cases where the provisions of this Code permit the issuance of licenses for a period of less than one (1) year, any license so issued shall become effective on the date of the issuance thereof.

**70.110 License Ownership.** Each certificate of license issued by the City shall be and shall remain the property of the City and no person shall alter or deface the same.

**70.111 Authority of City Officers to Enter and Inspect.** Acceptance by any person of a license granted by the City under this Code shall constitute permission to any officer of the City, within the authority granted him by the section of this Code under which such license was granted, to enter upon and inspect the licensed premises at all reasonable times.

**70.112 Fees.** No license shall be issued under this Code except upon payment of the required fee or fees therefor. No license or permit fee shall be required from any person who is exempt from such fee by provision of State or Federal law. Such persons shall comply with all other provisions of this Code requiring the license for which such fee is required. In the event that a license or permit is denied to any applicant, one-third (1/3) of the fee paid by him shall be refunded.

**70.113 Prohibited Display of Expired License.** No person shall display any expired license.

**70.114 Nontransferability.** A license issued under Title VII shall not be transferable.

**70.115 Jobbing Licenses Prohibited.** Except as otherwise provided in this Code, no person shall permit, by lease or otherwise, any other person to use or employ any license issued by the City of Harbor Springs.

**70.116 Persons to Whom Licenses Shall not be Issued.** No applicant to whom a license has been refused or whose license has been revoked shall make further application for a license for at least six (6) months after such last previous rejection or revocation, unless he can show, to the satisfaction of the City Clerk, that the reason for such rejection or revocation no longer exists.

**70.117 Suspension and Revocation.** Any license required by this Code may be suspended, or the renewal thereof refused, by the City Clerk for misrepresentation of any material fact in the application for such license. Any license may be suspended by the City Clerk for any good cause. The City Clerk shall notify the license holder of each such suspension, and the term of such suspension, and the reasons for such suspension. Any license may be revoked by the Council for any good cause. No license fee shall be refunded to any licensee in case of the revocation or suspension of a license for good cause. The term "good cause" as used in this Section, shall mean any act, omission, or the

permitting of a condition to exist, with respect to the license in question, which is:

- (1) Contrary to the health, morals, safety or welfare of the public;
- (2) Unlawful or fraudulent in nature;
- (3) A violation of the chapter under which the license was granted;
- (4) Beyond the scope of the license issued; and
- (5) A fact, circumstances or condition, which, had it existed or been known to the issuing authority at the time the license was granted, would have been sufficient grounds for the refusal thereof.

**70.118 Notice and Revocation of License - Hearing.** No license under this Code shall be revoked except after hearing before the Council following not less than ten (10) days' written notice to the licensee stating the time and place of such hearing, and setting forth the reasons for revocation.

**70.119 Appeal to Council.** An applicant for any license whose application for a license has been refused, or whose license has been suspended, may appeal such refusal to the City Council by setting forth all the facts in a written petition and filing the same with the Clerk within five (5) days after such refusal or suspension. The Council shall grant a hearing to the applicant following at least ten (10) days written notice to the applicant. The decision of the Council on such appeal shall be final.

**70.120 Must Carry License.** Except for a reasonable time after the loss or destruction thereof, no person to whom a license has been granted shall fail to carry such license upon his person when engaged in the operation, conduct or carrying on of the trade, profession, business or privilege for which the license was granted, except that where such trade, profession, business, or privilege is operated, conducted or carried on at a fixed place or establishment, or

from or in a vehicle, said license shall be exhibited at all times in some conspicuous place in such place, establishment or vehicle. No person shall fail to produce any license granted by the City when requested to do so by any City police officer, health officer, or City inspector or by any person representing the City Clerk, except upon good cause shown.

**70.121 Altering License or Permit Prohibited.** No person shall alter, deface or obliterate any license or permit issued by the City.

**70.122 Issuance of Duplicate License.**

(1) Any person holding a license under this Code may obtain a duplicate copy of such license in case the original has been lost, destroyed or so worn or soiled as to be partially or wholly illegible.

(2) No such duplicate copy shall be issued until the licensee shall return the original to the City Clerk, or file an affidavit with said Clerk to the effect that said license has been destroyed or lost. Any duplicate issued shall be plainly marked on its face "Duplicate."

**70.123 Clerk to Keep Record of License Applications.** The City Clerk shall keep a record of all applications for licenses filed with him, indicating thereon whether the license applied for in each case has been granted or withheld, and, if withheld, the reason therefor.]<sup>47</sup>

**Chapter 71**  
**GENERAL BUSINESS LICENSES**

**71.100 [Conditions of Issuance of a General Business License.]** A license to engage generally in a business, trade, profession, occupation or to solicit for business (a "Business License") shall not be granted or delivered until the applicant therefore has complied with all of the following requirements:

(1) The applicant must submit an application, upon oath or affirmation, to the City Clerk, on a form prepared by the City Clerk for Business Licenses, and modified from time to time by the City Clerk, that will include, at a minimum:

- (a) The name of the applicant.
- (b) The principals of the applicant, if the applicant is a corporation, limited liability company, partnership or other organization doing business under an assumed name.
- (c) The proposed location of the trade, profession or business of the applicant.
- (d) The length of time the applicant intends to conduct business at the proposed location.
- (e) The U.S. taxpayer identification number of the applicant.

(2) The applicant must provide a letter of approval from the owner or tenant of the location where the applicant proposes to conduct business, which letter must approve the use of the premises for the applicant's business for a period of at least two (2) months. If a person proposes to conduct a business, trade, profession or occupation for a period of less than two (2) months, a Business License shall not be issued to such applicant, and such applicant must apply for a transient merchant's license pursuant to Chapter 72, and such license, if granted, shall not exceed 6 days in any one calendar year.

(3) The City Clerk must determine that the proposed business, trade or profession will not derogate the public safety, health or welfare, and is legal and permitted business, trade or occupation within the City.

(4) The City Clerk must determine that the proposed business, trade, profession or occupation is permitted under the City Zoning Code to be conducted at the proposed location, in the manner proposed.

(5) Prior to issuance of a license, the City Clerk must determine that the applicant has satisfied any special requirements for licenses as otherwise provided in this Title VII.

(6) Prior to issuance of a license, the applicant must submit evidence satisfactory to the City Clerk that the applicant has secured, or will forthwith secure, a license or permit from the State of Michigan, if the applicant is required to have such a license permit in order to engage in the business, trade, profession or occupation proposed.

(7) Prior to issuance of a license, the City Clerk must determine that the applicant has paid in full the Business License Fee, as set by the City Council by resolution from time to time for the particular business, trade, profession or occupation proposed.

(8) Prior to issuance of a license, the City Clerk must determine that each and every other condition otherwise provided by this Code has been satisfied by the applicant.

**71.101 Renewal.** Applications for the renewal of a Business License shall be considered to be and shall be treated in the same manner as an original application for such license, provided, no person continuing in the same business shall be required to obtain a second license, if the furniture and fixtures of the person have been assessed for personal property taxation and placed upon the City's personal property tax rolls, and the personal property tax has been paid.<sup>48</sup>

**Chapter 72**  
**TRANSIENT MERCHANTS**

**72.100 License Required.** No person shall engage in business as a transient merchant, either as principal or agent, within the City of Harbor Springs, without first having obtained a license therefor in the manner hereinafter provided.

**72.101 Definition.** The term "transient merchant" as used in this Chapter shall mean any person engaging temporarily in the sale, or solicitation of orders for the sale, of goods, wares, merchandise, or food, or conducts other business, trade or profession or occupation, and who, for the purpose of conducting such business, occupies any lot, building, room, or structure of any kind. The term "temporarily" shall mean "not engaging in business for a continuous period of two months, or more, at a location or place in the City."

**72.102 Written Application Required.** Each person desiring a license to engage in business as a transient merchant shall make a written application therefor to the City Clerk at least 7 days prior to the date such person plans to engage in business as a transient merchant. In order for the application to be considered, the applicant must attach to the application, when submitted the full amount of the license fee as established under Section 71.103 hereof.<sup>6</sup>

**72.103 Fee Schedule.** The license fee for the initial and succeeding licenses issued to a person engaged in business as a transient merchant shall be set from time to time, by the Council, by resolution. No license shall be issued to any one person for more than six days in any one calendar year. When the furniture and fixtures of the licensee are placed upon the personal property tax rolls, no license is required. Notwithstanding the foregoing, the City Council may, in its discretion, waive the transient merchants' license fee for events sponsored by community organizations, such as the Chamber of Commerce, the Harbor Springs Community School, the Odawa Indians, the Kiwanis Club and the Harbor Springs Women's Club.<sup>6</sup>

**72.104 Payment of Fee.** After collecting the fee as provided, the City Clerk shall deposit the same in the City depository. There shall be no refund of fee unless a request for refund is made at least 30 days prior to the proposed date of usage. If a request is made for a refund within 30 days of the date of proposed usage, no refund will be issued.<sup>6</sup>

**72.105 License - Issue - Conditions.** Upon receipt of the application, together with the appropriate fee, and being satisfied that the applicant is of satisfactory business responsibility, the City Clerk shall issue a Transient Merchant's License to such applicant in the form provided, subject to all of the following conditions:

(1) No more than one transient merchant's license shall be outstanding at any one time within any one building, lot or structure within the City; provided the City Manager, in his discretion, may permit more than one such license at such location if the applicants reside within the 49740 zip code; provided that each such applicant shall pay the full fee for such applicant's license.

(2) No license shall be issued prior to 7 days from the date an application, containing all required information, attachments and fees, is filed with the City Clerk, in order to permit an adequate investigation of the applicant's business responsibility;

(3) No license shall be issued to any one person for more than six (6) days per calendar year; and,

(4) No license shall be granted to a minor.

(5) The application form shall inform the applicant the City shall notify the Sales Tax Division of the Michigan Department of Treasury that a Transient Merchant's License has been issued to the applicant for the dates and locations set forth in the application.

**72.106 License - Form.** The license issued under this Chapter shall be in such form as to contain on its face the full name of the person licensed, the permanent address, local address, if other than the foregoing, of such licensee, the name and address of the person, if any, which the licensee represents as agent, and the location of the place within the City at which the licensee is authorized to conduct his business. The license shall also specify the class of license issued, the article or articles to be sold, and the dates of issue and expiration.

**72.107 Applicability of Chapter 70.** Except as expressly modified by this Chapter, all the provisions of Chapter 70, which apply to licenses, shall apply to the application, granting, suspension and revocation of licenses under this Chapter.<sup>49</sup>

**Chapter 73  
AUCTIONS**

**73.100 Definitions.**

(1) The words "auction" and "public auction" as used in this Chapter shall mean the sale or offering for sale of goods at a public or private gathering by public outcry or gesture and competitive bidding.

(2) The word "auctioneer" shall include any person who conducts and handles an auction sale or public auction.

**73.101 Auctioneer's License Required.** It shall be unlawful for any person to engage in the calling of auctioneer, or to advertise or hold himself out to the public as an auctioneer, or to conduct, carry on or maintain any sale of goods, wares and merchandise by or at public auction, in the City unless such person holds a valid Auctioneer's License and conducts the auction sale only after issuance of an Auction Sale License, as provided in this Chapter.

**73.102 Filing of Affidavit.** An applicant for an Auctioneer's License shall file with the City Clerk an affidavit stating the full name of the applicant, address, the place or places of residence of applicant for a period of three (3) years immediately preceding the date of application, whether applicant has ever been convicted of a misdemeanor and/or a felony, the experience of the applicant as an auctioneer, the length of time engaged in such business, and the type and class of merchandise to be auctioned by him.

**73.103 Registration and Fingerprinting.** The applicant for an Auctioneer's License shall register at the Harbor Springs Police Department, and at the same time be fingerprinted by the Police Department.

**73.104 License Fee.** The applicant for an Auctioneer's License shall pay an annual fee in an amount to be set by the City Council from time to time by resolution. Such license fee shall be due and payable at the time of making

application and before the applicant conducts any auction. Such license shall be valid for the periods as provided in Chapter 70. No license fee shall be prorated.

**73.105 Non-Transferable.** No auctioneer's license issued under this Chapter shall be transferable from one person to another.

**73.106 Licensed Auctioneers Required for Auctions.** No goods, ware, or merchandise shall be sold at auction in the City except by an auctioneer duly licensed as such by the City, except goods, wares or merchandise offered for sale pursuant to any judgment, decree, or order of the court, or sale under legal process.

**73.107 Displaying Goods for Sale at Auction.** It shall be unlawful for any person to offer for sale at auction within the City, any goods, wares or merchandise, whether such person is a Licensed Auctioneer, or not, unless such person owning or displaying such goods, wares or merchandise for the sale shall have first obtained an Auction Sale License, in accordance with this Chapter.

**73.108 License to Hold Auction.** Any person applying for an Auction Sale License shall file an affidavit with the City Clerk, on a form prepared by the City Clerk, which affidavit must be filed at least thirty (30) days prior to the date of the proposed auction sale, which affidavit shall provide, among other information which may be required by the City Clerk:

(1) The name and business address of the applicant and the places of residence of the applicant for a period of three (3) years immediately preceding the date of application; and,

(2) Whether the applicant has ever been convicted of a misdemeanor and/or felony; and,

(3) The exact date, time, street number and address of the place where the proposed auction is to occur; and,

(4) The type and class of goods, wares and merchandise to be sold, and the owner of such goods, wares and merchandise.

(5) There shall be attached to the application for an auction sale license, in duplicate, a detailed inventory item by item of the goods, wares and merchandise to be sold and the quality and grade thereof, and the owners of said goods, wares and merchandise.

(6) The applicant for an Auction Sale License shall list the name and address of the licensed auctioneer to be employed by the applicant, and state the name of the sureties or surety company who will furnish the bonds as herein required.

(7) The applicant shall also produce proof of registration with the Michigan Department of Treasury for sales tax purposes.

**73.109 License Fee.** The applicant for an Auction Sale License shall pay in advance a fee, in an amount to be set by the City Council from time to time, by resolution, for an Auction Sale License. Such license fee shall be due and payable at the time of making application and before the applicant permits an auction sale.

**73.110 Investigation of Applicant.** Upon receipt of an application for an Auction Sale License, the City Clerk shall investigate to determine if the applicant is of good moral character and should the investigation disclose that the applicant is not of good moral character, or has ever been convicted of a misdemeanor involving dishonesty, or a felony, the license shall not be issued.

**73.111 Inspection of Proposed Location by Fire Department.** The location at which the auction sale is to be conducted shall be examined by the Fire Department of the City to determine whether the premises are safe, and whether there are sufficient exits and entrances for expected crowds. No auction sale shall be held upon premises which are not certified by the Fire Department as being safe for use for such purposes.

**73.112 Approval by City Manager.** If the applicant is approved by the City Clerk and the Fire Chief, then the application shall be forwarded to the City Manager's office where the City Manager shall approve or disapprove the application and return such application approved or disapproved to the City Clerk. Whenever the City Manager shall determine that an auction license shall be issued to any applicant under the provisions of this Chapter, he shall furnish written notice of this fact to the City Clerk and shall direct the issuance of a license to conduct such auction sale upon the premises in question, but only upon the date and time specified in the application for the Auction Sale License, and subject to the applicant first providing the bond as required below. Acceptance of the license shall be taken as an agreement upon the part of the licensee to abide by all the terms hereof.

**73.113 Bond.** The applicant, upon approval of the application by the City Manager, and before an Auction Sale License is issued, shall file a surety bond approved by the City Attorney and the City Clerk in the principal sum of TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS, payable to the City for the benefit of the inhabitants thereof, conditioned upon the applicant paying all losses and damages which lawfully may be claimed against the applicant because of misrepresentation of fact, and to pay any judgment, obtained by a purchaser against licensee for fraud or misrepresentation, and further conditioned to refund to any purchaser at any sale the full amount of the purchase price provided the purchaser returns the merchandise within thirty (30) days from the date of the sale and in as good condition as when received. Such bond shall remain in full force and effect for a period of ninety (90) days after the expiration or cancellation of any such license or after the termination of any action upon such bond.

**73.114 Notice to Applicant upon Refusal to Issue License; Hearings.** In the event the City Manager shall determine an auction license shall

not be issued, as applied for, he shall give written notice forthwith to the applicant, together with his reasons therefor. Such applicant may thereupon file with the City Clerk a request for a hearing before the City Council, and after the filing of such request, the application shall come on for hearing at the next regular meeting of the City Council. The City Council thereupon shall hear and consider the application, the report of the City Manager and the statements of the applicant. In the event the City Council shall, by a majority vote, find that the application for permit was properly denied, the City Clerk shall within five (5) days after such vote has been taken by the City Council, give notice in writing to the applicant.

**73.115 Receipts for Sales of Merchandise.** In case of the sale of goods, wares or merchandise for a sales price of FIFTY (\$50.00) DOLLARS or more, the licensee shall furnish to the purchaser at the time of the payment of the purchase price a receipt showing the item or items sold, and a duplicate of such receipt shall be retained by the licensee. Such receipt shall describe the item purchased and the representation made by the licensee as to its quality and grade and other information required to be specified in the inventory and on the tag, as provided in Section 73.112 hereof. Such receipt shall state the date of the sale, the amount paid as purchase price, the amount of tax paid and the name of the purchaser, and such receipt shall be upon a printed form showing the name and identity of the licensee making such sale. The licensee is hereby required to keep a duplicate of such receipt for inspection by the City Clerk.

**73.116 Receipts for the Sale of Jewelry.** Within twenty-four (24) hours after the conclusion of a sale at auction of jewelry, watches and diamonds, a separate receipt shall be furnished by the licensee conducting such sale covering each item sold and the receipt shall be a duplicate of the original delivered to the purchaser at the time of the purchase. This receipt shall state the item purchased, the amount paid therefor, the amount of tax paid and the name and address of the purchaser. Such receipt shall be on letterhead or other printed

matter showing the identity of the licensee. The licensee is hereby required to keep a record of such duplicate receipts subject to inspection by the City Clerk.

**73.117 Hours of Sale.** Auctions shall only be conducted between the hours of 9:00 a.m. and 4:00 p.m. on any given day, and no auction shall be conducted on a Sunday or on a legal holiday.

**73.118 Misleading or False Statements.** It shall be unlawful for any person to make a printed or oral statement concerning the goods, wares, merchandise or other personal property, which are the subject of a sale at public auction if such statement is false in any particular, or has a tendency to mislead any person present, or to misrepresent the quality, quantity, character, condition, value or cost of any such goods, wares, merchandise or other personal property which are subject to such sale at public auction.

**73.119 Licensee or Representative to be Present.** Whenever an Auction Sale License has been issued to a person to offer goods for sale at auction, it shall be the duty of the licensee, or a member of the firm, if a partnership, or an officer of the corporation, if a corporation, to be present and remain in continuous attendance at all times while an auction sale is being conducted upon the premises, and to correct immediately any false statement or misrepresentation made by an auctioneer before the bidding proceeds further. Any failure in this respect shall constitute a violation of the provisions of this Chapter by the Auction Sale Licensee, as well as by the licensed Auctioneer.

**73.120 Frequency of Auction Sale Licenses.** No more than one Auction Sale License shall be issued for any one location in the City of Harbor Springs during any one calendar year, nor within one year of any previous Auction Sale at such location.

**73.121 Exceptions.**

(1) Nothing in this Chapter contained shall apply to sales required by law to be made at

auction or public vendue, nor to judicial sales or sales by executors, administrators, trustees or referees to bankruptcy, receivers, or other public officers, nor to sales by licensed pawnbrokers or unredeemed pledges in the manner provided by law.

(2) The provisions of this chapter shall not apply to “yard sales” or “garage sales” which are regulated under Chapter 77.

**73.122 Exception for Residents.** Residents of the City of Harbor Springs who have maintained a residence within the City for at least twelve (12) months prior to application for a license may hold a public auction of their own household goods and furnishings once in each calendar year. No special goods or furnishings may be brought in for the sale. The provisions of Sections 73.107 to 73.116, inclusive, of this Chapter shall not apply to such sales, but the following provisions shall apply:

(1) A license fee shall be paid for any auction desired to be held under the provisions of Section 73.122, in such amount as shall be determined by resolution of the City Council from time to time.

(2) Not more than one such auction sale permitted under Section 73.122 may be held by any one resident in any calendar year nor within six (6) months of any previous auction by the same resident.

(3) Such auction sale shall be conducted only by an auctioneer holding an Auctioneer’s License issued under this Chapter.

**73.123 Applicability of Chapter 70.** Except as expressly modified by this Chapter, all the provisions of Chapter 70, which apply to licenses, shall apply to the application, granting, suspension and revocation of licenses under this Chapter. <sup>1,6</sup>

**73.124 Penalty.** Any person, firm or corporation, or any agent, employee or officer thereof, convicted of violating any of the provisions of this Chapter, shall be punished as

provided in Chapter 1 of this Code. Any such conviction shall automatically revoke the license under which the convicted person operated or attempted to operate. Each separate sale of any article or articles in violation of this Chapter shall constitute a separate offense and be punishable as such hereunder.<sup>50</sup>

**Chapter 74**  
**USED AUTOMOBILES AND AUTO PARTS**

**74.100 License Required.** No person shall engage in the business or occupation of dealing in used or second-hand automobiles or second-hand automobile parts without first obtaining a license therefor from the City Clerk, in the manner provided in this Chapter and Chapter 70. No such license shall be granted by the City Clerk until the application therefor has been referred to the Chief of Police and the Fire Chief, and a report has been received from them stating that the exercise of the license applied for in the proposed location will not injure the public health, safety or welfare, and that applicant has substantially complied with federal, state, and local law during the five (5) years immediately preceding the filing of the application.

**74.101 Fee.** For each license issued under the provisions of this Chapter, the applicant shall pay a fee as determined from time to time by resolution of the City Council.

**74.102 Purchases Prohibited.** No licensee under the provisions of this Chapter shall purchase or receive any used or second-hand automobile, or any part of an automobile, from any person who is under the age of seventeen (17) years, without the written consent of his parent or guardian. No such licensee shall purchase any used automobile or any part of an automobile which he has reason to believe to have been stolen.

**74.103 Business Record.** Each licensee under the provisions of this Chapter shall keep a daily record of all business transactions relating to used automobiles and to parts of automobiles, which record shall include the name or names and the address of persons from whom such automobiles or parts are purchased and to whom the same are sold, the identity of the automobile or part by name and description, including whenever applicable, the year of manufacture, serial number, engine number, body number and any other pertinent identification number, mark, or description. Failure to keep such a record by

any such licensee or by any of his agents or subordinates shall constitute a violation of this requirement and shall constitute sufficient grounds for the revocation of the license granted to him. The Chief of Police shall, at all times, have access to such daily report.

**74.104 Cleanliness.** No licensee shall permit the accumulation of any junk, rubbish or litter on licensed premises.

**74.105 Automobile Dismantling Yards.** Each automobile dismantling yard shall be completely surrounded by a brick, stone, masonry or wooden wall which is not less than eight (8) feet high, so as to hide car bodies and parts from the view of abutting and nearby premises. A tight and viewproof hedge or other landscaping may be substituted for the above required wall where the purpose of such wall would be met and fulfilled thereby.

**74.106 Expiration of Licenses.** Licenses under the provisions of this Chapter shall be granted for a period as prescribed in Chapter 70.

**74.107 Applicability of Chapter 70.** Except as expressly modified by this Chapter, all the provisions of Chapter 70, which apply to licenses, shall apply to the application, granting, suspension and revocation of licenses under this Chapter.<sup>51</sup>

**Chapter 75  
VENDORS AND SOLICITORS**

**75.100 Acts Constituting Nuisances.** The practice and act of going in and upon public or private property (including private residences) within the City for the purpose of selling, or soliciting orders for the sale of, food, goods, wares or merchandise, or for soliciting funds, whether such practices and acts be by peddling or hawking same, or by door to door solicitation or by telephone or other means of securing the consent of the owner or occupant of property to entry thereon for the aforesaid purposes, without first having secured a license as provided by Chapter 70 of this Code is hereby declared to be a nuisance.

**75.101 Commission of Nuisance Prohibited.** No person shall commit a nuisance as defined and set forth in Section 75.100.

**75.102 Exemptions.** The provisions of this Chapter shall not apply to the sale, or solicitation of orders for the sale of, milk, other dairy products, farm produce, or to the sale of, or solicitation of orders for the sale of, newspapers. Notwithstanding the foregoing, nothing in this Section shall be deemed to waive any other provision of state law or this Code of Ordinances regulating such activity.

**75.103 Fees and Term of License.** The license fee for each such license shall be based on a daily or monthly basis only which shall be the only periods for which licenses shall be issued, and the fees therefor shall be set from time to time by the Council, by resolution. The Council may, in its sole discretion, upon appropriate motion, waive the license fee.<sup>2,7</sup>

**75.104 Waiting Period for License.** A license for practices and acts coming within the scope of this Chapter shall not be issued prior to five (5) days from the date an application therefor is submitted.

**75.105 Requirements Specific to Vendors.** In addition to the license requirement set out above, and such other requirements as are

specified elsewhere in this Code, the following specific provisions shall apply to licenses to be issued to persons proposing to sell food and/or beverages on or adjacent to public property ("Food or Beverage Vendors"):

(1) Food or Beverage Vendors' licenses shall be issued only for the areas specified below, and only for the purposes specified below:

**District:** That part of Zorn Park lying south of Bay Street, including the City beach

**Authorized:** Sale of approved food items only from a wheeled and portable chassis as provided in Section (3) below (a "Portable Vendor");

- and -

Sale of approved food and beverage items from a Concession Facility located on private property, as provided in Section (4) below:

**District:** That part of the City owned waterfront area south of Bay Street between the City dock and the Harbor Master building.

**Authorized:** Sale of approved food and beverages from a wheeled and portable chassis as provided in Section (3) below (a "Portable Vendor").

**District:** Ford Park

**Authorized:** Sale of approved food items only from a wheeled and portable chassis (a "Portable Vendor") as provided in Section (3) below;

- and -

Sale of approved food and beverage items from a Concession Facility located on private property, as provided in Section (4) below.<sup>36</sup>

(2) Due to the greater supervision necessary to regulate such Food or Beverage Vendors, no more than one Food or Beverage Vendor's License shall be issued in any one of the above districts, and no more than a total of 2 of such licenses shall be issued for all of said districts, cumulated. Upon appropriate motion, but in its sole discretion, City Council may authorize more than one such Food or Beverage Vendors'

license in a district if, in the City Council's discretion, the welfare, safety and health of the citizens of Harbor Springs can be preserved and protected.

(3) All Portable Vendors' equipment must be contained on a wheeled and portable chassis, which shall not be motorized, and must be moveable by one person. The chassis shall not exceed three feet in depth by 10 feet in length and shall be subject to the continuing approval of the City Manager. Any advertising or signs must be permanently affixed to the Portable Vendor's equipment and no free-standing signs of any kind shall be permitted. Portable Vendors must provide waste containers for all disposable materials dispensed, and such containers must be self-contained on the Vendor's equipment. The application for a Portable Vendors' license must state specifically the type of foods, and or beverages proposed to be sold.

(4) A Concession Facility must be located in its entirety on private property, and may have tables and chairs for use by the public, but such tables and chairs must be located on private property. A Concession Facility must keep any signs on private property, and no signs or other forms of advertising shall be permitted on public property. Total signage shall not exceed 6 square feet. The dates and hours of operation of such Concession Facility shall be subject to approval of the City Council. A Concession Facility shall provide waste containers for all disposable materials dispensed, and such containers must be located on private property. The application for a Concession Facility license must state specifically the type of foods, and or beverages proposed to be sold, and must include a site plan depicting the location, a floor plan of the proposed Concession Facility and a proposal for policing trash generated by the Concession Facility in adjacent public areas.

(5) The City Manager and/or City Council may impose additional requirements from time to time in order to maintain good order, and to ensure the health, safety and welfare of the community.

(6) Any decision of the City Manager related to the permitting of a Food and Beverage Vendor's license may be appealed to the City Council, whose decision on the granting of a license shall be final.<sup>32</sup>

**75.106 Applicability of Chapter 70.** Except as expressly modified by this Chapter, all the provisions of Chapter 70, which apply to licenses, shall apply to the application, granting, suspension and revocation of licenses under this Chapter.<sup>52</sup>

**Chapter 76**  
**MOVING BUILDINGS - REGULATIONS**

**76.100 Definitions.** For the purposes of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Building" is a structure designed, built or occupied as a shelter or roofed enclosure and used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. A structure of the following dimensions shall not fall within this definition: a structure which does not exceed, in any one of its exterior dimensions, ten (10) feet in width, ten (10) feet in depth and ten (10) feet in height.

(2) "Building Inspector" is the Zoning Administrator of the City of Harbor Springs.

(3) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

**76.101 Permit Required.** No person shall move any building over, along or across any highway, street or alley in the City without first obtaining a permit from the Building Inspector.

**76.102 Application.** A person seeking issuance of a permit hereunder shall file an application for such permit with the Building Inspector.

(1) Form. The application shall be made in writing, upon forms provided by the Building Inspector, and shall be filed in the office of the Building Inspector.

(2) Contents. The application shall set forth:

(a) A description of the building proposed to be moved, giving street address,

construction materials, dimensions, and condition of exterior and interior;

(b) A legal description of the property from which the building is to be moved;

(c) The street address and legal description of the property to which it is proposed to move the building;

(d) The proposed location of the building on the new site;

(e) The highways, streets and alleys over, along or across which the building is proposed to be moved;

(f) The proposed moving date and hours;

(g) Any additional information which the Building Inspector shall find necessary to a fair determination of whether a permit should issue.

(3) Accompanying Papers.

(a) Tax Certificate. The owner of the building to be moved shall file with the application sufficient evidence that all taxes and any City charges against the building and lot from which the building is to be removed are paid in full.

(b) Certificate of Ownership or Entitlement. The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence, entitling the applicant to move the building.

(4) Fee. The application shall be accompanied by a permit fee in an amount that shall be set from time to time by resolution of the City Council.

**76.103 Deposit for Expense to City.** Upon receipt of an application, the Building Inspector shall require of the applicant a deposit of (a) a sum of money equal to twice the amount of the estimated expense to be incurred by the City in moving or removing and replacing any electric wires, street lamps or pole lines, in order to facilitate the move; and (b) a cash deposit in such sum as the Building Inspector shall reasonably determine as an indemnity for any damage which the Building Inspector estimates

the City may sustain by reason of damage or injury to City property which may be caused by or be incidental to the removal of any building over, along or across any street in the City; and to indemnify the City against any claim of damages to persons or private property, and to satisfy claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street in the City.

Any person filing an application hereunder may, in lieu of the general cash deposit required above, file with the Building Inspector a liability insurance policy, issued by an insurance company authorized to do business in the State of Michigan, and approved as to form by the Building Inspector, in the same amount and providing the same protection as would be required for a bond hereunder.

#### **76.104 Duties of Building Inspector.**

(1) **Inspection.** The Building Inspector shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met.

(2) **Standards for Issuance.** The Building Inspector shall refuse to issue a permit if he finds:

(a) That any application requirement or any fee or deposit requirement has not been complied with;

(b) That the building is too large to move without endangering persons or property in the City;

(c) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City;

(d) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the City;

(e) That the applicant's equipment is unsafe and that persons and property would be endangered by its use;

(f) That zoning or other ordinances would be violated by the building in its new location;

(g) That the time proposed for moving said building would unreasonably disrupt traffic within the City;

(h) That for any other reason persons or property in the City would be endangered by the moving of the building.

(3) **Fees and Deposits.**

(a) **Deposit.** The Building Inspector shall deposit all fees and deposits, and all bonds or insurance policies with the City Treasurer (or other appropriate officer).

(b) **Return upon non-issuance.** Upon his refusal to issue a permit the Building Inspector shall return to the applicant all deposits, bonds and insurance policies. Permit fees filed with the application shall not be returned.

(c) **Return upon allowance for expense.** After the building has been removed the Building Inspector shall furnish the City Manager with a written statement of all expenses incurred in removing and replacing all property belonging to the City, and of all material used in the making of the removal and replacement together with a statement of all damage caused to or inflicted upon property belonging to the City. The City Manager shall authorize the Building Inspector to return to the applicant all deposits after the City Treasurer deducts the sum sufficient to pay for all of the costs and expenses and for all damage done to property of the City by reason of the removal of the building. Permit fees deposited with the application shall not be returned.

**76.105 Duties of Permittee.** Every permittee under this Ordinance shall:

(1) Use designated streets. Move a building only over streets designated for such use in the written permit.

(2) Notify of revised moving time. Notify the Building Inspector in writing of a desired

change in moving date and hours as proposed in the application.

(3) Notify of damage. Give verbal notice to the Building Inspector immediately of any and all damage done to any property, and give written notice within twelve (12) hours thereof.

(4) Display lights. Cause red lights to be displayed on every side of the building while moving same; and, at all times erect and maintain barricades across streets in such manner as to protect the public from damage or injury.

(5) Street occupancy period. Remove the building from the City streets after four days of such occupancy, unless an extension is granted by the City Manager.

(6) Comply with governing law. Comply with the Zoning Code and all other applicable ordinances and laws upon relocating the building in the City.

(7) Pay expenses of officer. Pay the expenses of any traffic officer ordered by the Building Inspector to accompany the movement of the building to protect the public from injury.

(8) Clear old premises. Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a clean, neat, safe and sanitary condition.

(9) Remove service connections. See that all sewer, electric and water lines are properly shut off by City crews; and, that all electric and water meters are returned to the City Water and Electric Departments. Permittee shall notify gas, telephone and other utilities to remove their services.

#### **76.106 Enforcement.**

(1) Enforcing officer. The Building Inspector, the Police Department and the Department of Public Works shall enforce and carry out the requirements of this Ordinance.

(2) Permittee liable for expense above deposit. The permittee shall be liable for any expense, damages or costs in excess of deposited amounts or securities, and the City Attorney shall prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such excessive amounts.

(3) Original premises left unsafe. The City shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where permittee does not comply with the requirements of this Ordinance, and the cost thereof shall be charged against the Permittee.<sup>53</sup>

**Chapter 77  
YARD SALES**

**77.100 Definitions.** As used in this Chapter, the following words and phrases shall, for the purposes of this Code, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

(1) “Personal Property” means any used items or goods owned by the current resident which may be offered for sale at a yard sale.

(2) “Resident” means the current occupant only of a residential property.

(3) “Yard Sale” means all sales entitled “yard sale”, “garage sale”, “attic sale”, “porch sale”, “tent sale”, “rummage sale” or “flea market”, 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 such sale, excepting those sales which are conducted by auction, as defined in Chapter 73.

**77.101 Duration and Frequency.** A resident may conduct a yard sale in the City not more than twice within a calendar year, and no such sale shall be conducted for a period exceeding three consecutive calendar days.

**77.102 Display Between Sales.** A resident conducting two yard sales within a calendar year shall remove all tents, tables, displays, goods, signs, etc. between said yard sales.

**77.103 Signs.** The following rules will apply to the placement of any sign displayed for the purpose of advertising a yard sale:

(1) Yard sale signs may not exceed six square feet per sign face, or have more than two faces, or may not exceed five feet in height.

(2) One yard sale sign is permitted per sale site.

(3) Signs may be displayed only on the day of sales.

(4) Off-site signs (either free-standing or attached to trees or utility poles) may not exceed four square feet per sign face, shall be limited to one face per sign, and shall be displayed only on the actual days of the sale. Any sign not removed upon the conclusion of the sale (the last day of the sale) shall be subject to a \$100 fee for any sign removed by the City.

(5) Signs shall not be attached to any street sign or pole.

(6) Yard sale signs which in the opinion of a Police Officer obstruct the clear vision of a motor vehicle operator are subject to immediate removal by the Police Department.

**77.104 Permit and Fee.**

(1) Permits for the authorization of a yard sale shall be obtained at the Police Department prior to the beginning of said sale.

(2) Permit fees shall be set from time to time by resolution of the City Council.

**77.105 Publication Requirements.** Not less than annually, the City Clerk shall publish an advertisement in a newspaper of general circulation in the City, which advertisement will advise residents that said yard sales are subject to regulation, and advising residents where said rules for yard sales are available for review and where application for permits shall be made.

**77.106 Exceptions to Permit Requirements.** This chapter shall not apply to or affect:

(1) Persons selling personal property pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance within their powers and duties as public officials.

(3) Non-profit organizations sponsoring yard sales on tax-exempt property; however,

said organizations shall be limited to one yard sale per year and shall be subject to the approval of the Police Department and City Manager, who may require reasonable rules to be set in place or may require that City Council authorization be granted.

The City Manager may grant exceptions to this Chapter upon application of an individual or group, subject to the right of the individual or group to appeal the City Manager's decision to the City Council.<sup>54</sup>

**Chapter 78**  
**LICENSING OF EXTERIOR WEBCAMS**

**78.100 [Definition of Webcam.]** For the purposes of this Chapter, a “webcam” shall mean a camera capable of transmitting still or video images to the Internet.

**78.101 License Required for Exterior Webcam.** No person shall locate a webcam outside a building (an “exterior webcam”) unless licensed in accordance with this Chapter.

**78.102 Restrictions.** The following rules will apply to the placement and location of any exterior webcam:

- (1) An exterior webcam may be placed only on a commercially-zoned property, or land zoned C-Community, owned by the applicant.
- (2) The exterior dimensions of an exterior webcam unit shall not exceed one cubic foot.
- (3) If an exterior webcam is attached to a building or other object, it shall not extend more than three feet in height above the building or other object at the location at which it is affixed.
- (4) No exterior webcam shall be located within, under, above or upon any public right of way.
- (5) Any man-made structure to which a webcam is affixed must be a permitted use within the zoning district where the webcam is located. A separate man-made structure designed primarily to elevate or extend out an exterior webcam is prohibited.
- (6) All electric and other wiring to and from said exterior webcam shall meet all provisions of the relevant building codes.
- (7) There will be a limit of one exterior webcam per tax parcel.
- (8) The exterior webcam shall not be used to invade the privacy of any person or property.

**78.103 Licenses and License Fees.**

- (1) Permits for an exterior webcam shall be obtained at the City Hall by filing an application on a form prepared by the City Clerk.
- (2) License fees for exterior webcams shall be set from time to time by resolution of the City Council.
- (3) All licenses issued under this Chapter shall be subject to the provisions of Chapter 70 of this Code.]<sup>55</sup>