

ORDINANCE #69013
Board Bill No. 86
Committee Substitute
As Amended

An ordinance pertaining to the purchase or resale of scrap metal; repealing sections of Ordinance 55783 presently codified at Section 8.82.140 through 8.82.260 of the Revised Code of the City of St. Louis; repealing Ordinance 67424, presently codified as Section 15.159 of the Revised Code of the City of St. Louis, pertaining to electronic database requirements, sale and purchase of certain scrap metal, and rules and regulations for persons doing business in the City of St. Louis as scrap metal dealers; containing definitions; a penalty clause, a severability clause and an effective date.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE A part of Section Two of Ordinance 55783 presently codified as Section 8.82.140 of the Revised Code of the City of St. Louis is hereby repealed and there shall be included as a new Section 8.82.140 the following:

8.82.140 Definitions.

The following words or phrases, as used in this part, are defined as follows:

A. "Junk merchant and junk shop" Any person engaged in the business of buying, selling, exchanging or dealing in old junk, bottles, siphons, old rope, secondhand plumbing materials, secondhand gas and electric fixtures, old rubber tires or other used or old articles commonly designated as "junk," and having a store, stand, junkyard, or place of business, is a junk merchant, and such stand, junkyard, store or place of business is a junk shop.

B. "Junk peddler" means any person engaged in the business of buying, selling, exchanging, or dealing in old junk, bottles, siphons, old rope, secondhand plumbing materials, secondhand gas and electric fixtures, old rubber tires or other used or old articles commonly designated as "junk" and having no stand, store or place of business.

SECTION TWO. A part of Section Two of Ordinance 55783 presently codified as 8.82.220 of the Revised Code of the City of St. Louis is hereby repealed.

SECTION THREE.

Ordinance 67424, presently codified as Section 15.159 of the Revised Code of the City of St. Louis is hereby repealed and there shall be included as a new Ordinance the following:

SECTION FOUR. DEFINITIONS.

As used in this ordinance, the following terms shall have the meaning indicated in this section:

The term "catalytic converter" shall mean a device designed for use in a vehicle for purposes of chemically converting harmful exhaust gases, produced by the internal combustion engine, into harmless carbon dioxide and water vapor.

The term "copper property" shall mean any insulated copper wire, copper tubing, copper guttering and downspouts, or any item composed completely of copper.

The term "copper property peddler" shall mean any person who sells or attempts to sell copper property and who is not either a licensed or certified tradesperson (i.e. licensed plumber or electrician).

The term "ferrous metals" shall mean metals which contain iron and are magnetic.

The term "HVAC component" shall mean any air conditioner evaporator coil or condenser used in connection with a residential, commercial or industrial building.

The term "nonferrous metals" shall mean metals which do not contain significant amounts of iron, and are not magnetic, such as aluminum, brass, lead, zinc and copper.

The term "scrap metal dealer" shall mean any entity (person, firm, company, partnership, association, or corporation) located in the City of St. Louis who purchases products containing ferrous or nonferrous metals for recycling or resale.

The term "vehicle repair business" shall mean any commercial facility engaged in the repair or replacement of car, truck and van, motorcycle or other motorized mechanical and exhaust components, whether as a primary or ancillary activity.

SECTION FIVE. HOURS OF OPERATION

Hours of retail sales operation for scrap metal dealers may be no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.

SECTION SIX. ELECTRONIC RECORDKEEPING REQUIREMENTS.

(A) By no later than July 1, 2012, every scrap metal dealer shall install and maintain a retrievable electronic database containing a consecutively numbered record of each and every purchase of ferrous and non-ferrous metals.

(B) Any person selling ferrous or non-ferrous metal to a scrap metal dealer shall present a valid United States driver's license and/or a picture identification from a state or federal issuing agency (i.e., state issued identification or passport) to the scrap metal dealer.

(C) Any person selling copper property who holds a valid business license or copper property peddler's license shall present a copy of such license to the scrap metal dealer.

(D) Scrap metal dealers shall, at the time of making the purchase, enter into the electronic database the following information:

(1) Name, date of birth, and address of the seller as indicated on the state or federal issued driver's license and/or picture identification.

(2) Date of the scrap metal purchase.

(3) Driver's license number and/or reference number on the picture identification from a state or federal issuing agency (i.e., state issued identification or passport) capable of identifying the seller.

(4) Any business license number or the copper property peddler's license (including the name of the issuing municipality or county)

(5) Amount paid therefore.

(6) Kind of metals purchased.

(7) Number of pounds of each kind.

(8) License plate number of the vehicle delivering the material.

The information entered into the electronic database shall be completed in full without any missing data or information as prescribed in this section.

(E) The electronic database shall at all times be open for inspection by police or other law enforcement officers, during normal business hours without warrant or subpoena.

(F) A transaction receipt shall be issued and consist of the same information required under Section Six (D) of this ordinance and shall include the following statement: "By accepting payment from [Insert name of scrap metal dealer], seller represents and warrants that the material documented by this receipt is owned by or was lawfully obtained and the seller has the legal right to sell the material to [insert name of scrap metal dealer]." If the seller provides any documentation indicating that the person is in lawful possession of the scrap metal, or was otherwise lawfully acquired, including without limitation a bill of sale or receipt, the scrap metal dealer shall photocopy such documentation and maintain it with the transaction information otherwise required by this section.

(G) All records described in this section shall be maintained for three (3) years from the date of sale.

(H) A scrap metal dealer or the agent, employee, or representative of a scrap metal dealer shall not disclose personal information concerning a customer obtained under this Ordinance without the consent of the customer unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer shall implement reasonable safeguards

- 1) To protect the security of the personal information required under Section Six (D); and
- 2) To prevent unauthorized access to or disclosure of that information.

(I) A scrap metal dealer shall not be liable to any customer for a disclosure of personal information if the scrap metal recycler has met the requirements set forth in subsection (H).

SECTION SEVEN. RESTRICTED PURCHASES AND EXCEPTIONS.

(A) No person shall knowingly sell or attempt to sell to a scrap metal dealer and no scrap metal dealer shall knowingly and willfully purchase the following types of scrap metal:

(1) Guardrails, manhole covers, certain cables used only in high voltage transmission lines, historical markers and cemetery plaques, traffic signs, refuse containers or refuse container components, unless accompanied by proof of ownership or authorization to sell the materials on behalf of the owner.

(2) New materials, such as those used in construction, or equipment or tools used by contractors unless accompanied by proof of ownership or authorization to sell the materials on behalf of the owner.

(3) Materials which are clearly marked as property belonging to someone other than the seller, unless accompanied by written authorization from the business or property owner evidencing the seller has the legal right to sell the material.

(4) HVAC Components unless accompanied by written authorization from a licensed HVAC business evidencing that the components were legally removed and the seller has the legal right to sell the material.

(5) Catalytic converters unless purchased from a vehicle repair business.

(B) The scrap metal dealer shall make a photocopy of any documentation provided pursuant to this subsection, retain the copy as part of the transaction record, and maintain such photocopy for a period of three (3) years following the transaction. All photocopies shall be made available for inspection upon request by the police or other law enforcement officers.

(C) No scrap metal dealer shall purchase or otherwise receive from a person under the age of eighteen (18) any ferrous or non-ferrous metal, other than aluminum cans.

(D) This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.

SECTION EIGHT. COPPER PROPERTY PEDDLER'S LICENSE

(A) No person shall engage in the business of a copper property peddler without first obtaining a license from the License Collector and complying with the provisions of this part.

(B) Every copper property peddler shall pay a license fee of forty-five dollars (\$45) per year. The license shall expire June 30 of each year. Each license shall bear a separate number, the name and address of the licensee and telephone number of the licensee. The license shall be available only to the person in whose name it is issued, and shall not be used by any person other than the original licensee. Any licensee who shall permit his license to be used by any other person, and any other person who shall use a license granted to another person, shall each be deemed guilty of a violation of this ordinance.

(C) Application for licenses under this section shall be made in writing to the License Collector and shall state the name, age, description and address of the applicant. The application shall include a sworn statement setting forth each and every conviction of the applicant for violations of federal, state or city laws, statutes or ordinances. In addition, the applicant shall, at his or her expense,

obtain a complete copy of the person’s police record as indicated by the records of the city police department, and submit such record as part of the application. The License Collector shall not grant a license to any person who has been convicted of burglary, robbery, stealing, theft or possession or receiving stolen goods in the last twenty-four (24) months prior to the date of the application.

(D) The License Collector of St. Louis shall have the power and authority to revoke any license issued under this section for any willful violation by a copper property peddler of any of the provisions or conditions contained herein; provided, the license shall be revoked only after the licensee shall have been notified in writing at his place of business of the violations complained of and shall have been afforded a reasonable opportunity to have a hearing thereon before the License Collector.

(E) Notwithstanding the requirements set forth in this section, the City shall recognize a copper property peddler’s license issued by a state or local government so long as such license is issued pursuant to laws or ordinances which (i) are no less stringent than this ordinance, (ii) require criminal background checks, (iii) prohibit licenses issued to any person who has been convicted of burglary, robbery, stealing, theft, or possession or receiving stolen goods in the last twenty-four (24) months prior to the date of the application, and (iv) similarly recognize copper property peddler’s licenses issued by the City of St. Louis.

SECTION NINE. PURCHASES OF CERTAIN SCRAP METAL--REQUIREMENTS.

(A) A scrap metal dealer shall pay for any copper property or HVAC component as follows:

(1) A scrap metal dealer may not pay cash for copper property or HVAC component unless the seller presents a valid trade license or trade certificate.

(2) Payment to any seller of copper property or HVAC component who presents valid copper property peddler’s license shall be by check. Checks shall be written to the licensee or certified tradesperson and may be delivered to the seller at the time of the sale.

(3) Payment to any seller of copper property or HVAC component who does not present or have on file a valid business license, valid trade license or certificate or valid copper property peddler’s license shall be by check. Checks shall be payable only to the person whose name was recorded as delivering the copper property or HVAC component to the scrap metal dealer; provided, however, that if such person is delivering the copper property or HVAC component on behalf of a governmental entity or a nonprofit or for profit business entity, the check may be payable to such entity. All checks issued to a seller of copper property or HVAC component who does not present or have on file a valid business license, valid trade license or valid copper property peddler’s license shall be mailed via U.S. Mail to the address provided on the driver’s license or picture identification provided by the seller.

(4) Checks may not be converted to cash by a scrap metal dealer or by any related entity.

(B) This section shall not apply to any transaction for which the seller holds a business license issued by the City of St. Louis or other municipality or county and has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business.

SECTION TEN. HOLD NOTICE.

(A) If a scrap metal dealer has actual knowledge that copper property or HVAC component in its possession has been stolen the dealer shall notify the Police Department via 911 and provide any information in its possession relative to the seller or the sale transaction.

(B) Following notice from the scrap metal dealer or if the Police Department has reasonable suspicion that the scrap dealer is in possession of stolen property, the Police Department may issue to the scrap metal dealer a written notice placing a ten (10) day hold order on the property.

SECTION ELEVEN. PENALTY FOR KNOWING AND WILLFUL VIOLATION BY SCRAP METAL DEALER.

(A) Any scrap metal dealer who shall knowingly and willfully conduct business in violation of any of the provisions of this chapter shall be subject to a fine of not more than five hundred dollars (\$500) per violation, or a term of imprisonment of not more than ninety (90) days or by both a fine and imprisonment. Every transaction conducted by a scrap metal dealer in violation of the provisions of this chapter shall be deemed a separate violation.

(B) In addition to the penalties described in this section, the city may revoke any occupancy permit issued for the business premise of the scrap metal dealer who knowingly and willfully violates this chapter.

(C) Nothing in this section shall be construed to preclude a person violating this section from also being prosecuted for any applicable criminal offense.

SECTION TWELVE. PENALTY FOR SELLER OF STOLEN METALS

(A) It is unlawful for any person to knowingly present for sale to a scrap metal dealer stolen ferrous or non-ferrous metal, including but not limited to copper property or HVAC components. Any person who knowingly presents for sale stolen ferrous or non-ferrous metal shall be guilty of an offense for each item of scrap metal, and shall upon conviction, be subject to a fine of not less than Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed ninety (90) days or by both fine and imprisonment;

(B) It is unlawful for a person to willfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property owned by a third party, including any fixtures or improvements, for the purpose of obtaining ferrous or non-ferrous metals in any amount. Any person who willfully and maliciously cuts, mutilate, defaces, or otherwise injures any personal or real property owned by a third party for the purpose of obtaining ferrous or non-ferrous metal, shall be guilty of an offense for each item of scrap metal derived from such actions, and shall upon conviction, be subject to fine of not less than Five Hundred Dollars (\$500) or by imprisonment for a period not to exceed ninety (90) days or by both fine and imprisonment.

(C) In addition to the penalties described in this section, the city shall revoke any copper property peddler's license of a person who knowingly and willfully violates this chapter.

SECTION THIRTEEN. USE OF SCRAP THEFT ALERT SYSTEM

(A) A scrap metal dealer shall register with or subscribe to the alert system established by the Institute of Scrap Recycling Industries, Inc., referred to as the ISRI Scrap Theft Alert system and maintain that registration or subscription. The ISRI Scrap Theft Alert system is an internet-based alert system available to dealers, law enforcement agencies, and the general public that lists and tracks, at a minimum, thefts of nonferrous metal and articles containing nonferrous metals.

(B) The Chief of Police for the City of St. Louis shall designate the appropriate personnel within the department, which shall consist of not less than two officers, who shall register with or subscribe to, and maintain that registration or subscription with the ISRI Scrap Theft Alert system. The designated officers shall be directed by the Chief of Police to monitor and report scrap metal thefts to the system, as they are reported to the department in order to assist scrap metal dealers with identifying stolen materials that may be presented for subsequent sale.

SECTION FOURTEEN. SEVERABILITY CLAUSE.

If any provision, clause, sentence, paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION FIFTEEN. EFFECTIVE DATE.

This ordinance shall become effective thirty (30) days after its passage and approval by the Mayor.

Approved: November 9, 2011