

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 08-0064

Introduced by: Councilmembers Henry, Clarke, Conaway, Reisinger, Curran, Young, Kraft,
Branch, Spector, Holton

Introduced and read first time: March 3, 2008

Assigned to: Judiciary and Legislative Investigations Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: December 10, 2009

AN ORDINANCE CONCERNING

**Scrap Metal Processors – ~~Second-Hand Property Dealers~~ –
Reporting Requirements Licensing and Regulation**

FOR the purpose of modifying certain requirements and procedures for the licensing of scrap metal processors; requiring certain records and reports to be kept in electronic form and transmitted electronically; requiring payments to be made in a certain manner; expressly including used motor vehicle parts among refining the list of items to be reported to the Police Commissioner and held by scrap metal processors, second-hand property dealers, and others; providing for the confidentiality of certain records and reports; authorizing certain exemptions from reporting and holding requirements; modifying certain definitions; repealing certain exemptions; providing for the denial, suspension, or revocations of licenses for certain actions; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the licensing and regulation of scrap metal processors, second-hand property dealers, and others.

BY repealing and reordaining, with amendments

Article 2 - Consumer Protections

Section(s) ~~8-1(c) and 12-1(b), (c), and (f) 8-1(a) through (d), 8-3,~~

8-5 through 8-7, 8-8(a) and (c)(1)(i), 8-11(a), and 8-12

Baltimore City Code

(Edition 2000)

By adding

Article 2 - Consumer Protections

Section(s) 8-5.1, 8-13.1, and 8-13.2

Baltimore City Code

(Edition 2000)

By repealing

Article 2 - Consumer Protections

Section(s) 8-10

Baltimore City Code

(Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 08-0064

1 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
2 Laws of Baltimore City read as follows:

3 **Baltimore City Code**

4 **Article 2. Consumer Protections**

5 **Subtitle 8. Scrap Metal Processors**

6 **§ 8-1. Definitions.**

7 (a) In general.

8 In this subtitle, the following terms have the meanings indicated.

9 (B) HOLDABLE SCRAP METAL.

10 “HOLDABLE SCRAP METAL” MEANS ANY SCRAP METAL IDENTIFIABLE AT THE TIME OF
11 ACQUISITION AS HAVING BEEN A PART OF ANY ONE OF THE FOLLOWING:

12 (1) BEER KEG, METAL;

13 (2) BLEACHER, METAL;

14 (3) CATALYTIC CONVERTER;

15 (4) CEMETERY URN;

16 (5) COPPER, HARD DRAWN;

17 (6) GRAVE MAKER;

18 (7) GUARD RAIL;

19 (8) LIGHT POLE, METAL;

20 (9) MANHOLE COVER;

21 (10) PROPANE TANK;

22 (11) STREET SIGN;

23 (12) TREE GRATE;

24 (13) WATER METERS; AND

25 (14) ANY OTHER SIMILAR USED OBJECT COMMONLY ASSOCIATED WITH OR OWNED BY A
26 PUBLIC UTILITY.

Council Bill 08-0064

1 (c) [(b)] Person.

2 (1) "Person" means, except as specified in paragraph (2) of this subsection, any
3 individual, corporation, partnership, joint venture, firm, association, or other entity.

4 (2) "Person" does not include, unless otherwise expressly provided, a governmental
5 entity or an instrumentality or unit of a governmental entity.

6 ~~(e) Reportable scrap metal.~~

7 "Reportable scrap metal" means:

8 ~~(1) any used object that consists in whole or substantial part of non-ferrous metal;~~
9 ~~and~~

10 ~~(2) any of the following used objects, whether or not containing non-ferrous metal:~~

11 ~~(i) steel gates, railings, and grates;~~

12 ~~(ii) aluminum storm door and window frames; [and]~~

13 ~~(iii) metal typically associated with heating and plumbing fixtures;~~
14 ~~AND~~

15 ~~(iv) ANY MOTOR VEHICLE PART THAT HAS A POTENTIAL RESALE VALUE OF~~
16 ~~MORE THAN \$50 (OR ANY HIGHER AMOUNT SET BY THE POLICE~~
17 ~~COMMISSIONER).~~

18 (d) Scrap metal.

19 "Scrap metal" means any [used] object that consists in whole or substantial part of
20 ferrous or non-ferrous metal.

21 **§ 8-3. License required; APPLICATION AND fee.**

22 (a) In general.

23 No person may do business as a scrap metal processor without having first obtained a
24 license to do so from the [Director of Finance] POLICE COMMISSIONER.

25 (B) APPLICATION.

26 THE APPLICATION FOR A LICENSE SHALL:

27 (1) BE MADE IN THE FORM AND CONTAIN THE INFORMATION THAT THE POLICE
28 COMMISSIONER REQUIRES; AND

29 (2) CONTAIN A NOTARIZED STATEMENT ATTESTING, UNDER PENALTIES OF PERJURY, TO
30 THE TRUTH OF ALL INFORMATION PROVIDED.

Council Bill 08-0064

1 (c) [(b)] Fee.

2 (1) The APPLICATION FEE AND annual license fee [is \$475] for each place of business ARE
3 AS SET BY THE POLICE COMMISSIONER, WITH THE APPROVAL OF THE BOARD OF
4 ESTIMATES.

5 [(c) Fee collections.]

6 (2) [The annual license fee shall be] THESE FEES ARE collectible [pursuant to] IN
7 ACCORDANCE WITH CITY CODE Article 15, Subtitles 46 and 47 [of the City Code].

8 **§ 8-5. Identification of transferor.**

9 (a) Scope.

10 This section does not apply to purchases by a scrap metal processor from another scrap
11 metal processor that is licensed under this subtitle.

12 (b) In general.

13 Any individual who sells or otherwise transfers [reportable] scrap metal to a scrap metal
14 processor may not fail or refuse to provide the scrap metal processor with:

15 (1) his or her true name, date of birth, and address; and

16 (2) if the individual is acting as an agent for a principal, the principal's true name and
17 address.

18 (c) Identification.

19 The individual must also display to the scrap metal processor:

20 (1) the registration of the motor vehicle used to transport the scrap metal; and

21 (2) either:

22 (i) the individual's permit to act as a junk collector or scavenger under
23 Subtitle 7 of this article; or

24 (ii) a valid driver's license or other valid GOVERNMENT-ISSUED photographic
25 identification [issued by the Maryland Motor Vehicle Administration].

26 (d) Processor to require.

27 No [reportable] scrap metal processor may buy or otherwise acquire any scrap metal from
28 an individual who refuses or fails to provide the information required by this section.

Council Bill 08-0064

§ 8-5.1. METHODS OF PAYMENT.

(A) IN GENERAL.

A SCRAP METAL PROCESSOR MAY PAY FOR THE PURCHASE OR ACQUISITION OF ANY SCRAP METAL BY:

(1) CHECK DRAWN ON AN ACCOUNT BELONGING TO THE SCRAP METAL PROCESSOR;

(2) CASH DISBURSEMENT BY WAY OF WITHDRAWAL FROM AN AUTOMATED TELLER MACHINE THAT COMPLIES WITH SUBSECTIONS (B) AND (C) OF THIS SECTION; OR

(2) OTHER CASH DISBURSEMENT, IF THE SCRAP METAL PROCESSOR, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, TAKES AND STORES A PHOTOGRAPH OF EACH INDIVIDUAL WHO RECEIVES THE CASH.

(B) CASH FROM ATM.

AN AUTOMATIC TELLER MACHINE MAY BE USED UNDER SUBSECTION (A)(2) OF THIS SECTION ONLY IF THE MACHINE:

(1) IS LOCATED AT THE SCRAP METAL PROCESSOR'S LICENSED PLACE OF BUSINESS;

(2) IS UNDER THE OWNERSHIP OR MANAGERIAL CONTROL OF THE LICENSEE; AND

(3) TAKES AND EITHER STORES OR TRANSMITS TO THE LICENSEE A PHOTOGRAPH OF EACH INDIVIDUAL WHO MAKES A WITHDRAWAL.

(C) PHOTO REQUISITES.

A PHOTOGRAPH TAKEN UNDER THIS SECTION MUST BE DIGITAL AND, TO THE BEST OF THE ABILITY OF THE PHOTOGRAPHER OR AUTOMATIC TELLER MACHINE, SHOW AT LEAST THE INDIVIDUAL'S FULL HEAD, FULL FACE, FRONT VIEW, EYES OPEN, AND NATURAL EXPRESSION.

§ 8-6. Records generally.

(a) Required.

Each scrap metal processor shall:

(1) keep an accurate record IN ENGLISH of each transaction in which any person transfers any items to the scrap metal processor; and

(2) as provided in § 8-7 of this subtitle, file with the Police Commissioner a daily report of:

(i) all transactions involving [reportable] scrap metal; and

(ii) all transactions involving any other category of items that the Police Commissioner directs.

Council Bill 08-0064

1 (b) Forms.

2 The records and reports required by this section shall be [made on forms prepared and
3 supplied] KEPT IN AN ELECTRONIC FORM APPROVED by the Police Commissioner.

4 (c) Retention.

5 A scrap metal processor shall retain, at its LICENSED place of business, all records of a
6 transaction for at least 1 year after the date of the transaction.

7 (D) CONFIDENTIALITY.

8 ALL DAILY REPORTS AND OTHER RECORDS SUBMITTED UNDER THIS SUBTITLE ARE
9 CONFIDENTIAL, AS PROVIDED IN § 12-304(D) OF THE BUSINESS REGULATION ARTICLE OF
10 THE MARYLAND CODE.

11 **§ 8-7. Daily reports.**

12 (a) Scope.

13 The daily reports required by this section do not apply to items transferred to a scrap
14 metal processor from another scrap metal processor that is licensed under this subtitle.

15 (b) Filing.

16 (1) A scrap metal processor shall submit each daily report to the Police Department by
17 ELECTRONIC TRANSMITTAL, IN THE FORMAT AND MANNER REQUIRED BY THE POLICE
18 COMMISSIONER[:

19 (1) delivering the report or electronically transmitting a facsimile of it before 10
20 a.m. on the business day immediately following the day for which the report is
21 made; or

22 (2) mailing the report at the end of the business day for which the report is made].

23 (2) THE ELECTRONIC REPORT SHALL BE SUBMITTED BEFORE NOON OF THE BUSINESS DAY
24 IMMEDIATELY FOLLOWING THE DAY FOR WHICH THE REPORT IS MADE.

25 (c) Information required.

26 The daily report shall contain [the following information]:

27 (1) the date, time, and place of each transaction;

28 (2) a description of each item or group of substantially similar items transferred in
29 that transaction, including:

30 (i) THE FORMER USE OF THE ITEM OR GROUP OF ITEMS, IF KNOWN, OR, IF THE
31 FORMER USE IS NOT KNOWN BUT THE ITEM OR GROUP OF ITEMS IS

Council Bill 08-0064

1 IDENTIFIABLE, a good faith effort to describe the [item's] apparent former
2 use;

3 (ii) the type and grade of the item or group of items;

4
5 (iii) the total weight of each type and grade; and

6 (iv) the [price] AMOUNT paid or other consideration given for the item or
7 group of items;

8 (3) FOR ANY HOLDABLE SCRAP METAL, COPPER PIPES, AND COPPER WIRING, A DIGITAL
9 PHOTOGRAPH OF EVERY ITEM OR GROUP OF ITEMS OF THE HOLDABLE SCRAP
10 METAL, COPPER PIPES, AND COPPER WIRING;

11 (4) [(3)] the transferor's name, date of birth, and address, together with the type and
12 number of the permit[, driver's license,] or other form of identification used to
13 verify this information;

14 (5) (4) if the transferor is acting as an agent for a principal, the principal's true name
15 and address;

16 [(5) if the transferor is an individual selling materials that were formerly incorporated
17 into a dwelling owned by that individual, the address of the property from which
18 the items were removed;]

19 (6) a description of the motor vehicle used by the transferor to transport the item,
20 including its [registration plate and certificate numbers, state of registration, and
21 the] make, model, and color [of the vehicle], ITS STATE OF REGISTRATION, AND ITS
22 LICENSE TAG NUMBER; [and]

23 (7) the signature of the transferor and an authorized agent of the scrap metal
24 processor; AND

25 (8) ANY OTHER INFORMATION THAT THE POLICE COMMISSIONER REQUIRES.

26 [(d) Confidentiality.

27 A daily report submitted under this section is confidential, as provided in § 12-304(d) of
28 the Business Regulation Article of the Maryland Code.]

29 **§ 8-8. Holding requirements.**

30 (a) Required holding periods.

31 Except as authorized under subsection (b) of this section, each scrap metal processor
32 must hold ACQUIRED ITEMS at its LICENSED place of business [all acquired items], as
33 follows:

34 (1) IF THE ITEM IS a precious metal object, as defined in State Business Regulations
35 Article § 12-101, IT must be held for at least 18 days after the report of its
36 acquisition is made in accordance with this subtitle; and

Council Bill 08-0064

1 (2) [every other] IF THE item IS HOLDABLE SCRAP METAL, IT must be held for at least
2 [5] 3 business days (EXCLUDING ANY HOLIDAY DURING WHICH GENERAL CITY
3 GOVERNMENT OFFICES ARE CLOSED) after the report of its acquisition is made in
4 accordance with this subtitle.

5 (c) Additional holding period.

6 (1) After the retention period specified by subsection (a) of this section, a scrap metal
7 processor must continue to hold any item if:

8 (i) a law enforcement officer requests IN WRITING THAT the scrap metal
9 processor [to] do so;

10 **§ 8-10. Labels.**

11 All items in the scrap metal processor's place of business must be clearly marked or labeled
12 to correlate with:

13 (1) the scrap metal processor's record of the transaction; and

14 (2) the purchase receipt.]

15 **§ 8-11. Inspection of records and items.**

16 (a) Scrap processor to allow inspection.

17 A scrap metal processor must allow a law enforcement officer, acting in [the line of duty]
18 HIS OR HER OFFICIAL CAPACITY, to:

19 (1) enter the scrap metal processor's place of business or storage premises during
20 business hours; and

21 (2) inspect any record of transactions subject to this subtitle and any items on the
22 premises.

23 **§ 8-12. Exemptions from reporting and holding requirements.**

24 (a) [Scope] IN GENERAL.

25 [This section applies] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE REPORTING
26 REQUIREMENTS OF § 8-7 OF THIS SUBTITLE AND THE ITEM RETENTION REQUIREMENTS OF
27 § 8-9 OF THIS SUBTITLE DO NOT APPLY to items acquired by a scrap metal processor from:

28 (1) another licensed scrap metal processor;

29 (2) a person licensed as a pawnbroker;

30 (3) a person licensed as a second-hand personal property, antique, or consignment
31 dealer; or

Council Bill 08-0064

1 [(4) a person from whom the scrap metal processor has purchased reportable
2 scrap metal or other items within the preceding 12 months.]

3 (4) A FEDERAL, STATE, OR LOCAL GOVERNMENTAL ENTITY OR INSTRUMENTALITY OR
4 UNIT OF A GOVERNMENTAL ENTITY.

5 (b) Conditions.

6 [Items described in subsection (a) of this section are not subject to the daily reporting
7 requirements of § 8-7 of this subtitle or to the item retention requirements of § 8-9 of this
8 subtitle.] THE EXEMPTIONS IN SUBSECTION (A) OF THIS SECTION APPLY ONLY as long as
9 the acquiring scrap metal processor:

10 (1) keeps a record, subject to inspection under § 8-11 of this subtitle, of all the
11 information required by § 8-7 of this subtitle; and

12 (2) complies with all other requirements of this subtitle.

13 **§ 8-13.1 DENIAL, SUSPENSION, ETC., OF LICENSE.**

14 THE POLICE COMMISSIONER MAY DENY, SUSPEND, REVOKE, OR REFUSE TO RENEW A LICENSE
15 IF, AFTER GIVING THE APPLICANT OR LICENSEE NOTICE AND AN OPPORTUNITY TO BE HEARD,
16 THE POLICE COMMISSIONER FINDS THAT THE APPLICANT OR LICENSEE:

17 (1) HAS MADE A MATERIAL MISSTATEMENT OR OMISSION IN ANY APPLICATION FOR AN
18 INITIAL OR RENEWAL LICENSE;

19 (2) HAS VIOLATED A PROVISION OF THIS SUBTITLE OR OF A RULE OR REGULATION
20 ADOPTED UNDER THIS SUBTITLE; OR

21 (3) HAS ENGAGED IN A PATTERN AND PRACTICE OF RECEIVING STOLEN GOODS.

22 **§ 8-13.2. JUDICIAL AND APPELLATE REVIEW.**

23 (A) JUDICIAL REVIEW.

24 A PERSON AGGRIEVED BY A DECISION OF THE POLICE COMMISSIONER UNDER § 8-13.1
25 {“DENIAL, SUSPENSION, ETC., OF LICENSE”} OF THIS SUBTITLE MAY SEEK JUDICIAL
26 REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN
27 ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

28 (B) APPELLATE REVIEW.

29 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO THE
30 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
31 PROCEDURE.

32 ~~**Subtitle 12. Second-Hand Property, Antiques, and Consignment Goods**~~

33 ~~**§ 12-1. Definitions.**~~

Council Bill 08-0064

1 ~~(b) *Antique dealer.*~~

2 ~~“Antique dealer” means any person engaged in the business of buying for resale, trade, or~~
3 ~~transfer personal property that has special value because of its age, including but not~~
4 ~~limited to paintings, clothing, furniture, glass, ceramics, rugs, silverware, carvings,~~
5 ~~sculpture, MOTOR VEHICLE PARTS, and other moveable personal property, BUT excluding~~
6 ~~motor vehicles, records, tapes, compact discs, and books.~~

7 ~~(e) *Consignment goods dealer.*~~

8 ~~(1) “Consignment goods dealer” means any person receiving consignment goods for the~~
9 ~~purpose of selling them.~~

10 ~~(2) “Consignment goods” includes all categories of moveable personal property~~
11 ~~enumerated in subsections (b) and (f) of this section.~~

12 ~~(f) *Second-hand personal property dealer.*~~

13 ~~“Second-hand personal property dealer” means any person engaged in the business of~~
14 ~~buying for resale, trade, or transfer used or previously owned property or merchandise,~~
15 ~~including, but not limited to, clothes, furniture, household items, MOTOR VEHICLE PARTS,~~
16 ~~and other moveable personal property, BUT excluding motor vehicles, records, tapes,~~
17 ~~compact discs, and books.~~

18 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
19 are not law and may not be considered to have been enacted as a part of this or any prior
20 Ordinance.

21 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on ~~the 30th~~
22 ~~day after the date it is enacted~~ April 15, 2010.

Council Bill 08-0064

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City