

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

Subject: Adoption of an Ordinance amending Chapters 1, 7 and 28 of the City of Houston Code of Ordinances pertaining to Metal Recyclers and Secondhand Resellers.

Category #

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Agenda Item

FROM (Department or other point of origin):
Houston Police Department

Origination Date
November 10, 2016

Agenda Date

DIRECTOR'S SIGNATURE


Martha I. Montalvo, Acting Chief of Police

Council District(s) affected

For additional information contact:

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Candice Gambrell, Sr. Attorney, City Legal Phone: (832) 393-6446

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Ordinance amending Chapters 1, 7 and 28 of the City of Houston Code of Ordinances as it relates to Metal Recyclers and Secondhand Resellers.

Award Amount: N/A

Finance Budget

SPECIFIC EXPLANATION:

The City Departments of Legal, Houston Police (HPD), and Administrative and Regulatory Affairs (ARA) recommend the adoption of an ordinance amending certain provisions of Chapters 1, 7 and 28 of the City of Houston Code of Ordinances to conform to changes in state law governing metal recycling entities.

HPD and ARA consulted with Legal and developed proposed amendments to separate secondhand resellers from many of the stringent requirements placed upon metal recyclers, reflect changes specific to the application and administrative processes conducted by ARA for both secondhand resellers and metal recyclers, and update regulations for the metal recycling industry while simultaneously providing HPD additional investigative tools to enforce these regulations. HPD conducted several industry stakeholders meetings, and presented the proposed amendments to the Public Safety and Homeland Security Committee on April 12, 2016, which can be viewed at <http://www.houstontx.gov/council/committees/publicsafety.html>.

The proposed amendments include the following:

Chapter 7, Article I. In General

- **Section 7-7(c). Process for revocation of license; appeal.**
In the event of a license revocation, the licensee must appeal in writing and deliver to the director within 10 business days of the date of the notice of revocation. The hearing shall be conducted within 20 business days (*increased from 15 business days*) of receipt of the request. This change is due to the heavy schedule of the hearing officer and the need to coordinate the schedules of multiple department representatives.

Chapter 7, Article III. Metal Recyclers

- **Section 7-51** – add definitions of *public transaction* (sale to an individual member of the public) and *business to business transaction* (sale to an authorized representative of a company); add definition for *on-site representative* and require both the on-site representative and any manager or operator to undergo a criminal history background check.

REQUIRED AUTHORIZATION

ARA Department:

City Legal Department:

Other Authorization:


11/10/16

Date:
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- **Section 7-55** – remove surety bond requirement; add a 24-month blackout period (a single term of a license) to re-apply for a new license after initially denied; provide an extended time frame for the appeal of a denial of a license of 20 business days to match the deadline provided for the appeal of a revocation (as stated above).

Chapter 7, Article VI. Secondhand Resellers

- Secondhand resellers have been extracted from Art. III and moved to the newly created Art. VI. Additionally, the risk of theft/ selling of stolen items is much greater with metal recyclers and therefore the oversight and regulations applied to metal recyclers are much more stringent than those necessary for secondhand resellers. Accordingly, the record keeping requirements for secondhand resellers have also been streamlined.

Chapter 1, Section 1-10 regarding offenses as disqualifiers for metal recycler license applicants:

- Amend the disqualifying offenses to match those set forth in Texas Administrative Code, Rule sec. 36.55(b), (c), and (d), regarding metal recycling entities, with misdemeanor convictions for the specified offenses serving as disqualifiers within 5 years of the application filing date and felony convictions serving as disqualifiers within 10 years of the application filing date.

Chapter 28, Section 34 pertaining to the location/ distance requirements of automobile storage lots, automobile wrecking and salvage yards and lots used for open storage by metal recyclers:

- Amend section 28-34 of the Code to remove the term "secondhand metal dealer" leaving only "metal recycler." Section 28-34(b) is amended to clarify that the distance requirement applies to lots used by metal recyclers for open storage as now defined in Chapter 7. No other substantive changes to this section have been made and the distance requirement remains the same – no less than 300 feet from a church, school or residence.