

ORDINANCE NO. 192, SERIES 2007

AN ORDINANCE ADDING NEW SECTIONS TO REQUIRE BETTER ACCOUNTING OF PURCHASES MADE BY JUNK, SECONDHAND AND SCRAP DEALERS, PLACE A ~~40~~ 5 DAY-WAITING PERIOD BEFORE THE SALE OF SUCH PURCHASES, AMEND AND RENUMBER EXISTING SECTIONS 115.120, 115.121, AND 115.122 OF CHAPTER 115 OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (LMCO), AMEND LMCO 115.999(D) TO ADD PENALTIES FOR FAILURE TO COMPLY WITH THE NEW SECTIONS, AND REPEAL SECTIONS 115.205 -115.208 AND 115.999(F) (As Amended).

Sponsored By: Councilmen Blackwell, Downard, and Kramer

WHEREAS, the Metro Council believes it is in the best interest of the public's health, safety, and welfare to impose new and more stringent requirements on junk, second hand and scrap dealers; and

WHEREAS, these requirements are designed to minimize crime, particularly theft and receipt of stolen property, and to assist the Louisville Metro Police Department in combating theft and locating stolen property; and

WHEREAS, it is the desire of the Metro Council to impose these requirements to assist the Louisville Metro Police Department in crime prevention.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: New Sections are hereby added to LMCO Chapter 115, existing Sections 115.120, 115.121, and 115.122 are hereby amended and renumbered, and Section 115.999(f) is amended as follows:

§ 115.120 DEFINITIONS.

For purposes of this subchapter pertaining to junk, secondhand and scrap dealers, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMODITY METALS. Any metal containing primarily brass, copper, copper alloy, aluminum, stainless steel, or magnesium, or any other metal trading on the commodity markets that trades in pounds, rather than ounces, and sells for 50 cents per pound or greater, *except aluminum single serving beverage cans shall not be considered commodity metals.*

FERROUS METALS. Any metal consisting primarily of iron or steel, except if such metal sells for 50 cents per pound or greater.

INVESTMENT PURPOSES. The purchase of regulated property by persons and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

LOUISVILLE METRO. The geographic boundaries of Jefferson County, Kentucky.

MOTOR VEHICLE DEALERS. Any person who exclusively deals in new or used cars.

PAWNBROKER. Any person who loans money on deposit of personal property, or who deals in the purchase of personal property on condition of selling the property back again at a stipulated price, or who makes a public display at his place of business of the sign generally used by pawnbrokers to denote their business, or who publicly exhibits a sign advertising money to loan on personal property or deposit is a pawnbroker.

PERSON. Any individual, partnership, corporation or other business entity.

PRECIOUS METALS. Any metal that is valued for its character, rarity, beauty, quality, or worth, including, but not limited to gold, silver, platinum or any other such metals, whether as separate items or in combination as a piece of jewelry.

PURCHASE. To obtain regulated property by paying money or giving other valuable consideration in a voluntary transaction. However, purchases under this subchapter do not include transactions in which regulated property is obtained by the loan of money or on condition of selling regulated property back to the individual from who it came at a stipulated price.

REGULATED PROPERTY. The following property, which is used or secondhand:

1. Commodity and Precious Metals including but not limited to any metal that is valued for its character, rarity, beauty, quality or worth, including gold, silver, platinum, copper, aluminum or any other such metals, whether as a separate item or in combination as a piece of jewelry.
2. Gems including but not limited to any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such gems or stones, whether as a separate item or in combination as a piece of jewelry.
3. Jewelry containing metals or gems including, but not limited to, rings, necklaces, pendants, earrings, brooches, bracelets, or chains.
4. Watches, including, but not limited to, pocket watches, wrist watches, or stop watches.

5. Sterling silver, including, but not limited to, flatware, candleholders, coffee and tea sets, ornamental objects, champagne flutes, wineglasses, or serving pieces such as platters, bowls, trays, water pitchers, open bakens, ice buckets, shell dishes or salt and pepper shakers.
6. Audio equipment and accessories, including, but not limited to, tape players, tape decks or players, compact/digital disc players and compact discs, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, satellite radios, car stereos, car speakers, radar detectors, broadcasting equipment or citizen band radios/transceivers.
7. Video and digital equipment and accessories, including, but not limited to, televisions, videotape or digital videodisc recorders, videotape or digital videodisc players, video cameras, video monitors, video games, digital video discs or video game consoles.
8. Photographic and optical equipment and any accompanying bags, including, but not limited to, cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment.
9. Electrical Office equipment, including, but not limited to, telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers,

transcribers, dictaphones, computers, modems, monitors, or any computer equipment or accessories having uniquely identifiable parts.

10. Power yard and garden tools, including, but not limited to, garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders, or ladders.
11. Power equipment and tools, including, but not limited to, air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers or logging equipment.
12. Automotive and hand tools, including, but not limited to, wrench sets, sockets sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks or timing lights.
- ~~13. Firearms, including, but not limited to, rifles, shotguns, handguns, revolvers, pellet guns or BB guns.~~
14. Telephones or telephone equipment, including, but not limited to, office telephones, portable home telephones, mobile telephones, cellular telephones or answering machines.
15. Sporting equipment, including, but not limited to, bicycles, golf clubs and bags, pool cues or cases, skis, ski boots, snowboards, fishing rods or reels, or skates.

16. Outboard motors and boating accessories, including, but not limited to, outdrives, props, inboard engines, boat covers, tops or unlicensed boat trailers.
17. Microwave ovens.
18. Motor Vehicles, other than as set forth in subsection 19(a), below.
19. Regulated property does not include any of the following property:
 - a. Motor Vehicles dealt in by Motor Vehicle Dealers;
 - b. Boats;
 - c. Books, magazines, beta and VHS video tapes, and comic books;
 - d. Glassware, objects d'art, or sports cards and sports memorabilia;
 - e. Furniture;
 - f. Refrigerators, stoves, washers, dryers and other similar major household appliances;
 - g. Property purchased at an auction;
 - h. Property purchased from another person, who is in a business, as described in § 115.121;
 - i. Postage stamps, stamp collections and philatelic items;
 - j. Clothing;
 - k. Ferrous Metals, including items listed in sections 6 through 17 above, when purchased by a scrap processor and which items are in such condition that their highest and primary value is either in sale or transfer as scrap metal.

I. Commodity or ferrous metals purchased by a scrap processor from a manufacturing, industrial or other commercial vendor that generates such metals in the ordinary course of business.

m. A total of 25 or less compact discs, digital video discs, and/or video games purchased in any combination from a single seller in a 24-hour period.

SCRAP PROCESSORS. Any person who utilizes torches, sheers, balers, presses, or shredders to manufacture scrap metal for remelting purposes only.

§ 115.1201 ~~COMPLIANCE REQUIRED: EXCEPTION.~~

~~(A) Every person, firm, or corporation, including itinerant merchants, canvassers, or solicitors engaged in, conducting or carrying on any business in Louisville Metro wherein he or she junk, used auto parts or secondhand goods, wares, merchandise, including, but not limited to jewels, gems, and precious metals, or any other materials are regularly purchased, in the course of his or her business, regulated property from another person an individual shall comply with all the provisions of this subchapter. This subchapter shall not apply to pawnbrokers.~~

~~(B) The provisions of this subchapter shall not apply to a scrap metal processing facility or the sale of secondhand books consisting of paperback or hard cover.~~

§ 115.1242 REGISTER TRANSACTION RECORD OF PURCHASES.

(A) Every person, firm, or corporation carrying on any of the aforesaid businesses as set forth in § 115.121, above, shall keep a register transaction record for each purchase, which shall contain the name of the person on behalf of the business,

as set forth in § 115.121, above, who actually made the purchase, the name of the person or persons and his or her signature from whom any regulated property secondhand goods, wares, merchandise, materials, junk, or used auto parts are is purchased, an electronically retained copy of a government-issued photo identification, including the information obtained from scanning the bar code on the back of a government-issued photo identification of the person or persons from whom any regulated property is purchased, or alternatively, a copy of a government-issued photo identification card and a right thumb print, however, if unavailable, then a left thumb print of the person or persons from whom any regulated property is purchased, such thumbprint can continually be referred to provided it is kept on file after the initial transaction with such person, the date when the property was received and bought, the residence or place of business of such person or persons from whom the regulated property is purchased, and a full description of the items purchased articles. The register transaction record shall be in plain, legible English handwriting text. Except for scrap metal processors purchasing commodity and precious metals, if any article item left on deposit, pledged, or **of regulated property** purchased has engraved thereon any numbers, words, or initials, other than the name of the manufacturer or maker of the item, or contains any setting of any kind, the description recorded on the transaction record in the register shall show the numbers, or initials or other unique identifying marks. In the case of a motor vehicle, the vehicle identification number shall be recorded on the transaction record.

(B) It shall be the duty of any such person, firm, or corporation to allow any police officer designated by the Louisville Metro Chief of Police during regular business

hours to examine and inspect transaction records the register, and if sufficient information cannot be gained from an inspection of transaction records the register, it shall be the duty of any person, firm, or corporation to permit and allow the officer to examine any and all articles regulated property mentioned herein belonging to or purchased by temporarily left in charge of such person, firm, or corporation. A transaction record and digital photograph, in accordance with Section 115.26, if applicable, for a purchase shall be maintained together on the premises for at least one (1) year after the date of such purchase.

(C) Every person carrying on business as set forth in § 115.121, above, shall give a plain written or printed receipt of the regulated property purchased.

§ 115.1223 TRANSACTING BUSINESS WITH MINORS.

No person, firm, or corporation carrying on any businesses as set forth in § 115.1201, above, shall at any time or under any circumstances purchase from a minor any of regulated property as defined in § 115.120, above. mentioned in that section, or loan money to a minor and take as a pledge for such loan any of the articles mentioned in that section. unless having been presented a certificate of trade as signed by a parent or legal guardian, provided such parent or legal guardian has been physically present at a prior transaction.

§ 115.124 CHIEF OF POLICE MAY EXAMINE BOOKS.

The Louisville Metro Chief of Police and persons acting by his orders may examine during regular business hours the books of any person doing business as set forth in § 115.121, above, or his clerk, if they deem it necessary when in search of stolen property. Any person who has in his possession a receipt from selling regulated

property to a person carrying on a business as described in § 115.121, above, shall, when accompanied by a policeman or by an order from the Louisville Metro Chief of Police, be permitted to examine regulated property purporting to be sold by that receipt. No property shall be removed from the possession of any person doing business as set forth in §115.121, above, without due process of law as required by the existing laws of the Commonwealth of Kentucky, or the laws and ordinances of the Louisville/Jefferson County Metro Government.

~~§ 115.125 REPORT OF ITEMS PURCHASED TO BE FURNISHED TO CHIEF OF POLICE.~~

~~(A) Every person carrying on business in Louisville Metro as described in §115.121, above, shall by 11:00 a.m. each day furnish to the Louisville Metro Chief of Police a true and correct report of all goods purchased by him or her during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. This report shall be conveyed in the format and prescribed method as determined by the Louisville Metro Chief of Police.~~

§ 115.126 REGULATED PROPERTY SALE LIMITATIONS.

No regulated property purchased by a person carrying on a business as described in § 115.121, above, shall be sold, altered or destroyed for a period of ~~40~~ 5 full days after the date of purchase, ~~unless a digital photograph, which accurately depicts the regulated property items of the transaction is taken and retained together with the transaction record, as provided by § 115.122, for at least one (1) year from the date of purchase.~~ The regulated property must be kept uncommingled, along with a copy of the transaction record, as set forth in § 115.122, on the premises of

the business location during the holding period for purposes of inspection, if necessary, as provided by this subchapter. ***This Section 115.126 shall not apply if a digital photograph, which accurately depicts the regulated property items of the transaction is taken and retained together with the transaction record, as provided by § 115.122, for at least one (1) year from the date of purchase.***

§ 115.999(D) PENALTY.

(1) Any person, ~~firm, or corporation~~ who shall neglect or refuse to comply with or violates the provisions of § 115.124~~2~~ shall be fined not less than \$40~~50~~ nor more than \$400~~500~~ for each offense. Each day such person, firm, or corporation shall neglect or refuse to comply with or violate any of the provisions of that section shall constitute a separate offense.

(2) Any person, ~~firm, or corporation~~ who shall violate any of the provisions of § 115.122~~3~~ shall be fined \$100, imprisoned not more than 50 days, or both.

(3) Any person who shall violate § 115.124 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

~~(4) Any person who shall violate § 115.25 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100).~~

(5) Any person who shall violate § 115.126 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

SECTION II: Sections 115.205 -115.208 and 115.99(F) are hereby deleted as follows:

~~§ 115.205 FINDINGS, DECLARATION OF PUBLIC POLICY, AND PURPOSE.~~

~~(A) The Metro Council finds that there exists within the limits of Jefferson County many businesses which deal in the processing of iron, steel or nonferrous~~

~~metals into scrap for remelting purposes, in the manufacturing industries nationally known as "scrap processing plants."~~

~~(B) The Metro Council declares as a matter of public policy, that certain regulation of scrap processing plants within Jefferson County is in the interest of the health, safety, and welfare of the people.~~

~~(C) The purpose of this subchapter is specifically, but not exclusively:~~

~~(1) To minimize crime, vandalism, and petty thievery;~~

~~(2) To minimize the possibility of fire or exposure to disease;~~

~~(3) To protect property values and protect the public from exposure to the articles commonly found therein; and~~

~~(4) To assist law enforcement officials in combating the crime of auto theft.~~

~~§ 115.206 DEFINITIONS.~~

~~For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~AUTO CRUSHER. Any person who uses a machine to flatten motor vehicles to facilitate transportation to a scrap processor.~~

~~AUTOMOBILE RECYCLING DEALER. Any person who deals in wrecked, damaged, or abandoned vehicles which have become unsuitable for transportation due to malfunction beyond reasonable repair and maintenance.~~

~~DIRECTOR. The Director of Inspections, Permits, and Licenses or his designate.~~

~~JUNKYARD DEALER. Any person who accumulates discards for the purpose of selling them to a scrap processor.~~

~~———— MOTOR VEHICLE DEALER. Any person who deals in new or used cars.~~

~~———— MOTOR VEHICLE SALVAGE DEALER. Any person who restores vehicle components on a commercial basis to a condition suitable for use as an operating motor vehicle.~~

~~———— SCRAP OR RECYCLABLES. Any discards from society and industry whose reuse may be utilized by industry.~~

~~———— SCRAP PROCESSOR. Any person who utilizes torches, sheers, balers, presses, or shredders to manufacture scrap for remelting purposes only. This scrap is that commonly used by foundries, mills, and chemical plants.~~

~~———— SECONDHAND DEALER. Any person who buys discards or unusable items for the purpose of selling them for reuse or to a scrap processor.~~

~~———— TOW TRUCK OPERATOR. Any person who uses another motor vehicle as a source of power to transport another motor vehicle unable to do so under its own power or because of its condition.~~

~~§ 115.207 OPERATIONS.~~

~~———— (A) — The contents of a scrap processing plant shall not be placed or deposited closer than ten feet to the property line, if the adjacent property owner so requests.~~

~~———— (B) — All scrap processing plants shall comply with applicable safety codes and fire regulations.~~

~~———— (C) — Every person, firm, or corporation carrying on the business of scrap processing shall keep a record which shall contain the name of the person or persons from whom any motor vehicle, or portion or residue of such, is purchased, the date when received and bought, the residence or business address of such person or~~

~~persons, a description in weight of the vehicle, and its vehicle identification number if visibly ascertainable. This record shall be in plain, legible English handwriting or typed or printed. However, no record of the vehicle identification number shall be required on any motor vehicle, or portion or residue of such, purchased from any of the following sources or entities:~~

- ~~_____ (1) Governmental entities;~~
- ~~_____ (2) A recognized, known, and established industrial or commercial source with an identifiable address and place of business;~~
- ~~_____ (3) A motor vehicle salvage dealer with a known address, outside Jefferson County;~~
- ~~_____ (4) A motor vehicle dealer with a known address, outside Jefferson County;~~
- ~~_____ (5) An automobile recycling dealer with a known address, outside Jefferson County;~~
- ~~_____ (6) An auto crusher with a known address, outside Jefferson County;~~
- ~~_____ (7) A tow truck operator with a known address, outside Jefferson County;~~
- ~~_____ (8) Other scrap processors with a known address, outside Jefferson County;~~
- ~~_____ (9) Junkyard dealer with a known address, outside Jefferson County;~~
- ~~_____ (10) Any secondhand dealer with a known address, outside Jefferson County;~~

~~This record shall be maintained for a period of two months and if at that time the law enforcement agencies involved have not inspected or taken possession of it, it may be destroyed.~~

~~(D) No person, firm, or corporation carrying on the business of scrap processing shall at any time or under any circumstances purchase from a minor any scrap, unless the minor is delivering scrap from a recognized source as defined above.~~

~~§ 115.208 COMPLIANCE REQUIRED; ENFORCEMENT.~~

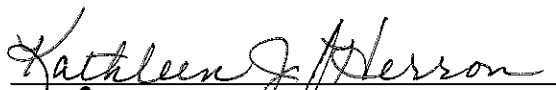
~~(A) No scrap processing plant shall be operated or maintained unless it is in compliance with all applicable federal, state, county, Metro Government, or city laws, statutes, ordinances, or regulations.~~


~~(B) The Director shall administer this subchapter.~~

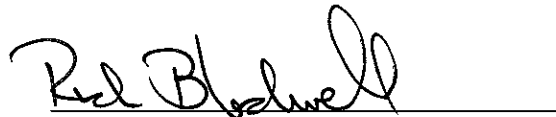
~~§ 115.999(F) PENALTY.~~

~~(F) Any person, firm, or corporation who neglects or refuses to comply with or violates the provisions of §§ 115.207 or 115.208 shall be fined not less than \$50 nor more than \$100 for each offense, or imprisonment for repeat violators not to exceed ten days, or both. Each day such person, firm, or corporation neglects or refuses to comply or violates these provisions shall constitute a separate offense.~~

SECTION III: This Ordinance shall take effect **120 days after upon** its passage and approval.


Kathleen J. Herron
Metro Council Clerk


Jerry E. Abramson
Mayor


Rick Blackwell
President of the Council

10/1/07
Approval Date



APPROVED AS TO FORM AND LEGALITY:

Irv Maze

Jefferson County Attorney

BY: 

Junk Secondhand Salvage New Ordinance epm Draft 10 Floor Amendment 092107.doc