

BILL NO. 7 2008
AN ORDINANCE

**AN ORDINANCE AMENDING THE CITY OF READING CODE OF ORDINANCES
CHAPTER 13 – LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS
BY ADDING PART 15 SCRAP METAL DEALERS**

WHEREAS, the theft of motor vehicles, motor vehicle parts and various types of metal material and articles that have value as scrap metal is a significant and growing problem for law enforcement agencies, contractors and builders, utility providers, business owners, homeowners, and the citizens of Reading; and

WHEREAS, current regulation of businesses that deal in scrap metal has proven to be ineffective at detecting or preventing this illegal activity at the point at which stolen items are sold as scrap metal; and

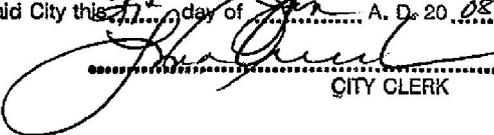
WHEREAS, there is a need to provide licensing and regulation of scrap metal dealers to help ensure that motor vehicles and metal sold as scrap metal are legitimately owned by the seller and not stolen property and to assist in the recovery of stolen property; now

THEREFORE THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Amending the City of Reading Code of Ordinances Chapter 13 Licenses, Permits and General Business Regulations by adding Part 15 Scrap Metal Dealers, as stated in Exhibit A attached.

SECTION 2. This ordinance shall be effective ten (10) days after its adoption and approval by the Mayor, or re-passage by City Council over the Mayor's veto, in accordance with Section 219 of the City of Reading Home Rule Charter, or as set forth in Section 221 of the City of Reading Home Rule Charter.

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 28 day of Jan A. D. 20 08. Witness my hand and seal of the said City this 28 day of Jan A. D. 20 08.


CITY CLERK

Enacted Jan 25 2008

[Signature]
President of Council

Attest:

[Signature]
City Clerk

(Deputy Police Chief & Council Staff)

Submitted to Mayor: [Signature]

Date: 1-29-08

Received by the Mayor's Office: [Signature]

Date: 1/29/08

Approved by Mayor: [Signature]

Date: 1/29/08

Vetoed by Mayor: _____

Date: _____

EXHIBIT A

PART 15 SCRAP METAL DEALERS

§13-1501 Short Title. This Part shall be known and may be cited as the "City of Reading Scrap Metal Dealer Ordinance.

§13-1502 Definitions. The following words, terms and phrases when used in this Part shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning.

Scrap metal facility shall mean any facility, establishment or place of business that is maintained or operated for the primary purpose of receiving, storing, processing, buying or selling scrap metal for re-melting or recycling purposes.

Scrap metal facility license or licensee shall mean any person holding a scrap metal facility license issued pursuant to this chapter and includes any person acting as the license holder's authorized agent or employee.

Scrap metal means any scrap article or material composed of iron, steel, or nonferrous metal or metal alloy, including but not limited to copper, brass, bronze, aluminum or stainless steel.

Motor vehicle shall have the same meaning as set forth in the Pennsylvania Consolidated Statutes Title 75 – Motor Vehicles.

Vehicle identification number or derivative thereof shall mean any number or derivative of such a number that is embossed, engraved, etched or otherwise marked on any motor vehicle or motor vehicle part by the manufacturer and can also include a duplicate motor vehicle identification number replaced upon a motor vehicle under the authority of the registrar of motor vehicles.

Retail transaction shall mean any transaction involving any person other than an industrial or commercial account, a nonprofit account or a government account in which a scrap metal facility purchases or receives scrap metal.

Industrial or commercial account shall mean any person operating from a fixed location that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification. The term may include other scrap metal facilities.

Nonprofit account shall mean any nonprofit organization that is exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.

Government account shall mean any political subdivision as defined in Pennsylvania Consolidated Statutes that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.

§13-1503 License Requirement; Expiration. No person shall operate a scrap metal facility in the City of Reading except under authority of a valid scrap metal facility license issued by the Codes Enforcement Office, in the name of the person operating the facility and for the specific site of the facility. Every license shall expire on December 31st of each calendar year following its date of issuance, subject to suspension or revocation pursuant to Section 13-1507 of this Chapter. An application for the renewal of a license must be submitted prior to the annual expiration date of the existing license, and operation under authority of the existing license may continue until issuance or denial of the renewal of the license, provided submission of the renewal application is timely.

§13-1504 Application for Scrap Metal Facility Licenses; Fee.

- A. Application for a scrap metal license is required by §13-1503 herein, including the renewal of the license, shall be made in writing and sworn to on a form provided by the Codes Enforcement Office and pursuant to the terms of this Chapter.
- B. The application for a license to operate a scrap metal facility shall include the following information:
 1. A list identifying every individual who will be directly engaged in managing or supervising the daily operations of the facility, and for each individual so identified the following information shall be provided by the applicant.
 - (a) The individual's name, address and social security number (Note: providing social security number is optional);
 - (b) A photocopy of a current and valid driver's license, military identification, or other government issued photo identification card

issued to individuals;

(c) A set of fingerprints and a certified copy of the individual's criminal history information, including date, time, and place of convictions for all violations except traffic offenses as obtained from any local or state enforcement agency;

2. The applicant's history of any government issued licenses or permits related to the operation of any scrap metal facility, including any currently held by the applicant and any previously issued licenses or permits that were revoked or suspended within the past the (10) years and the reasons therefore;

3. If the applicant is a business entity that is required to register with the Commonwealth of Pennsylvania Secretary of the State, a copy of a current certificate of good standing issued by that office;

C. No person shall knowingly make a false license application or procure or seek to procure a license for another.

§13-1505 Issuance and Display of License.

A. Subject to the terms of this chapter the Codes Enforcement office shall issue a license to an applicant to operate a scrap metal facility at a specified location, unless the service safety director finds any of the following:

1. That the application does not contain all the required information, or that the application contains a material misrepresentation;
2. That the facility which is to be licensed fails to conform to the City of Reading Code of Ordinances, including, but not limited to, zoning, building, health, property maintenance and fire.

B. The Codes Enforcement Office may refuse to issue a license to an applicant if it finds any of the following:

1. That the applicant, or any person having a direct or indirect interest in that which is to be licensed, has been convicted of a felony or theft offense within the past ten (10) years or is on probation or parole for a felony or theft offense;
2. That criminal conduct as defined in the Pennsylvania Crimes Code has or is occurring on the premises of the facility on a repeated basis by customers, patrons, employees, operators or licensees. Repeated basis shall mean two (2) or more offenses within the previous twelve (12) months.

C. The issued license shall be displayed in a conspicuous place within the public area of the facility.

§13-1506 Transfer of License.

- A. A scrap metal facility license is not transferable to another location. No person so licensed shall transfer or solicit business at any location other than at the address stated in the license. Any change in location of the scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license.
- B. Any change in ownership or location of the scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license. For purposes of this section, whenever the person to which a license has been issued is a corporation or limited liability company and there is a transfer of the corporation's stock or that limited liability company's membership interests such that, following the transfer, the owner of the majority or plurality of the limited liability company's membership's interests would change, the transfer of stock or membership interests shall be considered a change of ownership.

§13-1507. License Suspension or Revocation.

- A. The Codes Enforcement Office may revoke or suspend a scrap metal facility license where it finds:
1. A section of this Part was violated upon facility premises; or
 2. A violation of the **Commonwealth of Pennsylvania Statute, Commonwealth of Pennsylvania Code** or the City of Reading Codified Ordinances was committed upon the facility premises, and was reasonably related to the management, condition or operation of the facility; or
 3. A material misrepresentation was made upon application for a license; or
 4. An operator of the facility, or employee or agent of the operator, hindered, obstructed or prevented any inspection of the facility authorized by this Part.
- B. Unless a stay order has been issued by a court of competent jurisdiction, a licensee is prohibited from purchasing, receiving or selling any scrap metal articles or material during the time that the licensee's scrap metal facility is revoked or suspended.

§13-1508. Records of Transactions; Daily Reports to Police

A. All scrap metal facility licensees shall maintain a separate record book or electronic file in which the licensee shall keep an accurate, legible and complete record of all the following specified information for each retail transaction on a form approved by the Chief of Police:

1. A complete and accurate description of any scrap metal article or material that has been purchased or received by the licensee, including, where available, the name and maker of the article or material, and the serial number or other identification number, letters or makes written or inscribed on the article or material;
2. The seller's name and current address;
3. The identification number from a current and valid driver's license, military identification, or other government-issued photo identification card issued to the seller;
4. The identification number and state issuing the license plate of the motor vehicle being used by the seller to transport the articles or material to the facility;
5. An impression of the right or left thumb of the seller;
 - a. If the licensee uses the electronic reporting method, any of the following procedures will comply with the requirement for a thumb impression:
 - 1) A fingerprint scanner impression of the thumbprint provided in an electronic file with the daily reporting titled by name and date.
 - 2) A thumbprint impression on a receipt signed by the seller, filed by date, and retained for three (3) years, and kept in such a manner as it may be retrieved by law enforcement upon request.
6. The date and time that the licensee purchased or received the article or material and the name of the individual employee or operator of the facility who conducted the transaction;
7. A declaration of whether the total amount paid by the licensee for the articles or material purchased was more, or less, than five hundred dollars (\$500).

B. Every retail transaction shall be numbered consecutively.

C. Every retail transaction shall have a digital image taken with the date and time stamp of such quality as approved by the Chief of Police. The tapes or pictures must be maintained for a 90 day period.

D. The licensee shall prepare a daily report listing all retail transactions occurring during the preceding day and containing all information described in this section for each retail transaction. Before 12:00 noon each day, the licensee shall deliver a copy of the licensee's daily report to the Chief of Police or his designee. Delivery of the daily report shall be by means of a secured electronic transmission, a legible facsimile transmission, or the delivery of a paper copy or a physical electronic medium containing the report. Licensees submitting a physical electronic or data from a computerized tracking system must submit data in a format approved by the Chief of Police.

E. The records described in this section shall be retained by the licensee for three (3) years following the date of the retail transaction.

F. Aluminum cans are exempt from reporting.

§13-1509. Additional Requirements for Motor Vehicles and Parts; Exemption.

A. In addition to all the other requirements of this Part, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle shall also comply with all the following requirements:

1. No motor vehicle shall be purchased or received unless at the time of the transaction the seller has provided both a valid driver's license, military identification, or other government issued identification card issued to the seller bearing a photograph of the seller.
2. A scrap metal facility that purchases or receives a motor vehicle from the owner described on the certificate of title, etc., shall immediately attach the certificate of title, etc., to an appropriate DMV form, keep a record/copy of the transaction, and forward the certificate of title, etc., and DMV form to the PA DMV. The scrap metal facility shall keep record of the transaction for three (3) years after creating the record. The record shall include a copy of the certificate of title, etc., and other relevant information.

B. In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle part bearing a vehicle identification number or derivative thereof shall also record, as a part of the retail transaction, that part's vehicle identification number or derivative thereof.

C. This chapter shall not apply to any operations person licensed by the Commonwealth of Pennsylvania as a motor vehicle salvage dealer under the Chapter 73 of the Pennsylvania Vehicle Code. Non-auto salvage derived scrap operations shall be subject to regulation as a scrap metal facility.

§13-1510. Retention of Articles; Permission of Police For Disposition; Recovery of Stolen Goods by True Owner.

A. Except as otherwise provided in this section, a scrap metal facility licensee shall retain and all scrap metal articles or material composed of copper, brass, aluminum or stainless steel that have been purchased or received by the licensee in a retail transaction, in the condition the article or material was received, until the expiration of at least seven (7) days after the date of purchase or receipt. This required seven (7) day retention period does not apply to aluminum cans, motor vehicles, scrap metal articles or material other than copper, brass, aluminum or stainless steel, for which the licensee has received written permission for disposition from the Chief of Police or his designee.

B. For any article or material received for which a retention period is required under this section, the licensee shall attach a tag to the article or material in some visible and convenient place that identifies the date and transaction number applicable to that article or material which tag shall remain attached until disposition of the article or material.

C. If the Chief of Police or his designee has probable cause to believe that an article or material is stolen property, he shall notify the licensee in writing. Upon receipt of such notice, the licensee shall retain the article or material until the expiration of thirty (30) days after receipt of the notice, unless the Chief of Police or his designee notifies the licensee in writing that the retention of the article or material is no longer required. Upon expiration of the thirty (30) day period, absent renewal thereof by the Chief of Police or his designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

D. If the Chief of Police or his designee receives a report that property has been stolen and determines the identity of the true owner of the allegedly stolen property that it is in possession of the licensee, and informs the licensee of the true owner's identity, the licensee shall hold the allegedly stolen property for at least thirty (30)

days from the date of notification by the Police Chief or his designee to enable the true owner to pick up that property from the licensee. If the licensee fails or refuses to return the allegedly stolen property that has been held as required by this Part, the true owner may recover the property from the licensee through appropriate legal action. Upon expiration of the thirty (30) day period, absent renewal thereof by the Police Chief or his designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

E. If the Chief of Police or his designee determines that there is a need for the investigative purposes to tag and retain certain articles or materials received from a specified person, the chief or his designee, shall notify the licensee in writing of such need and the licensee shall tag and retain said material for three (3) days. Upon expiration of the three (3) day period, absent renewal thereof by the Police Chief or his designee, the scrap article or material may be immediately recycled. This tagging shall occur regardless of whether or not the licensee reported electronically.

F. A scrap metal facility licensee shall be exempt from the retention requirements contained in this Part provided:

1. The licensee utilizes the automated electronic reporting system approved by the Chief of Police for all retail transactions involving scrap metal for which a retention period would otherwise be required under this section; and
2. All required data fields in the transaction report, as determined by the Chief of Police or his designee are completed and transmitted by the licensee to the approved reporting system; and
3. The licensee takes a digital image with the date and time of such quality as is approved by the Chief of Police. The tapes or pictures must be maintained for a 90 day period showing date and time.

§13-1511. Purchase of Certain Articles Restricted

A. No scrap metal facility licensee shall purchase or receive any restricted article in a retail transaction unless at the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the article, or is an employee, agent, or other person authorized to sell the article on behalf of the owner.

B. For purposes of this section, "restricted article" means all of the following: beer kegs; shopping carts; electric or communication cable or wire and their electronic components owned by a public utility, electric or communication company; grave markers, sculptures, plaques and vases, the appearance of which suggest that the articles have been obtained from a cemetery; guard rails for bridges, highways and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers and other similar types of utility access covers; traffic directional and control sign and light signals; metal marked with the name of a political subdivision of the state and other articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state; historical markers.

C. No scrap metal facility licensee shall purchase or receive any consumer appliance in a retail transaction unless:

1. At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the consumer appliance, or is an employee, agent or other person authorized to sell the consumer appliance on behalf of the owner; or
2. No more than two (2) consumer appliances are purchased or received per seller per day.

D. For purposes of this Part "consumer appliance" means all of the following: air conditioners, hot water heaters, furnaces, refrigerators, freezers, stoves, clothes washers or dryers.

E. No scrap metal facility licensee shall purchase or receive any catalytic converter in a retail transaction unless:

1. At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the catalytic converter, or is an employee, agent, or other person authorized to sell the catalytic converter on behalf of the owner; or
2. No more than one (1) catalytic converter is purchased or received per seller per day.

§13-1512. Purchases Prohibited. No licensee shall purchase or receive any scrap metal article or material from any person under the age of eighteen (18), or from any person identified in writing to the licensee by the Chief of Police as a known or suspected thief or

receiver of stolen property, or from any person failing or refusing to provide to the licensee all the identifying information required from the seller under this Part. Aluminum cans may be purchased from a minor without identification or reporting.

§13-1513. Authority to Conduct Inspections

A. Upon display of the proper credentials, any law enforcement officer or the designee of the Codes Enforcement Office shall be granted entry to a scrap metal facility at any time the facility is open for business for the purpose of conducting an inspection to ensure compliance with this chapter. For purposes of such inspection, the inspection official shall be granted full access by the licensee to the buildings, grounds, storage areas, vehicles and records of the licensee.

B. No person shall deny access to, or in any way impede an inspection of a licensed scrap metal facility, or any portion thereof or fail to cooperate with any party authorized to enforce this Part and any party authorized to inspect scrap metal facilities as noted herein.

§13-1514. Appeals. The refusal to issue or renew, and the suspension or revocation of, a scrap metal facility license pursuant to the provisions of this Part may be appealed to the Berks County Court of Common Pleas.

§13-1515. Severability. In the event any section or provision of this Part is declared to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Part as a whole or any part thereof other than the part to be declared to be invalid or unconstitutional.

§13-1516. Penalties. Any person violating any section or component of this Part is guilty of a misdemeanor of the third degree and subject to the cost of prosecution and restitution. Each day that a person continues to violate this Part shall constitute a separate and complete offense.