

CHAPTER 2013-2

No. 24

AN ORDINANCE AMENDING ARTICLE VII, "JUNK AND SECONDHAND DEALERS," OF CHAPTER 14, "LICENSES"

Approved January 24, 2013

Be it ordained by the City of Providence:

WHEREAS theft of public and private property containing metals such as aluminum, brass, bronze, copper, iron, and steel has become more prevalent as the international demand and prices for scrap metal have increased; and

WHEREAS reports from the Providence Department of Public Works indicate that over 200 manhole covers are "missing" to date in 2012, and Police Department records show that approximately 190 burglaries in 2011 involved theft of copper; and

WHEREAS, the Center for Problem-Oriented Policing, a nationally-recognized nonprofit organization funded through the Department of Justice, stated in a 2010 report that "stealing valuable metal has become a serious concern for the police, businesses, public utilities, railroad companies, and the community at large" and places a significant financial burden on municipalities, utility companies, and individual property owners to replace stolen items; and

WHEREAS the purchasing and selling of stolen metals poses a substantial threat to private and public property, as well as a substantial and unreasonable interference to public health, public safety, public peace, public comfort and public convenience; and

WHEREAS, it is hereby the intention of the City Council, in accordance with the benefits and rights of self-government prescribed in the Providence Home Rule Charter and guaranteed by the Constitution of the State of Rhode Island, to preserve the health, safety and welfare of the citizens of Providence.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Providence that:

SECTION 1. The Code of Ordinances of the City of Providence, Article VII, of Chapter 14 is hereby amended as follows:

Sec. 14-127. - License required.

No person shall engage in the business of purchasing, selling, bartering or dealing in junk, old metals or secondhand articles, or of receiving the same for the purpose of melting the same or of converting the same into castings, unless such person shall be duly licensed by the board of licenses.

Sec. 14-128. - License application.

(a) Every applicant for a license required pursuant to this article shall submit the following information, on a form provided by the board of licenses:

(1) Full name, including middle name, any aliases, address, date of birth, and social security number of applicant and/or principals of any applicant corporation.

(2) Location of the proposed business.

(3) Radius map and property owner list identifying owners of property within a two-hundred-foot radius of the business as appears on the most current property tax list certified by the tax assessor of the city.

(b) All applications shall be accompanied by an application fee of one hundred dollars (\$100.00), plus the costs of advertising, posting and mailing as determined by the board of licenses.

Sec. 14-129. - Fees for licenses.

The annual fees for the licenses required by section 14-127 hereof shall be \$100.00, except for applicants seeking to receive old metals for the purpose of melting the same, or converting the same into castings, for which the fee shall be \$5.00.

-Sec. 14-130. - Display of license.

Every licensee under this article shall display its license in a conspicuous place at the licensee's place of business.

Sec. 14-131. - Expiration of license.

All licenses granted under the provisions of this article shall expire on the first day of May next succeeding the date of such license, and no rebate shall be made from the license fee for such license for any license term less than one year.

Sec. 14-132. - Identification of seller of goods or merchandise.

(a) Every person licensed as herein provided shall require the seller of any goods or merchandise to present a valid motor vehicle operator's license containing his or her photograph or other such suitable identification containing his or her photograph,

(b) The licensee shall maintain a record of the same, together with any other records required by law.

(c) Any person who violates any provision hereof, shall be subject to those penalties provided in section 14-145 of the Code of Ordinances.

Sec. 14-133. - Conduct of business in premises used as dwelling, restricted.

No such business as defined in section 14-127 hereof shall be carried on in any building or premises of which any part is used as a residence.

Sec. 14-134 – Records to be kept.

(a) Every person licensed under this article for the purpose of purchasing, selling, bartering or dealing in old metals shall record all transactions for which a license is required under this article. The licensee shall, upon request, send any records created pursuant to this section to the chief of police.

The record created pursuant to this section shall include the following:

- (1) Date of the transactions
- (2) Name, address, telephone number, and signature of the person from whom the old or used metals are purchased or received, as well as a photocopy or digital image of the person's photo identification, as required under Section 14-132
- (3) License plate number of the vehicle used to transport the old or used metals, whenever applicable
- (4) A description of the old or used metals
- (5) Price paid for the old or used metals

(b) Nothing in this section shall be construed as requiring additional recordkeeping for junked automobiles or automobile parts beyond what is otherwise provided by law.

(c) Records created under this section shall be kept by the licensee for two (2) years from the date of the transaction. Nothing in this section shall be construed as to relieve any licensee of any record retention requirements otherwise required by law.

(d) The section shall not apply to the purchase of old metals from a person who is licensed to engage in the business of purchasing, selling, bartering or dealing in junk, old metals or secondhand articles, and who has previously recorded the contents of the load, pursuant to this section, and such person provides a written statement affirming such record at the time of the transaction.

Sec. 14-135. - Inspection of records and places of business.

The record required in section 14-134, and every place of business of any person licensed hereunder shall be subject to the inspection and examination of law enforcement officials.

Sec. 14-136. - Holding period for property acquired by licensee.

(a) Every person licensed hereunder shall keep for a period of ten (10) days, and shall immediately notify the police department of the following property purchased or received consisting of aluminum, brass, bronze, copper, cast iron, stainless steel, and/or wrought iron:

- (1) Statues and sculptures
- (2) Weather vanes
- (3) Downspouts
- (4) Handrails
- (5) Decorative fencing (wrought iron only);
- (6) Grave markers, sculptures, plaques and vases, the appearance of which suggest that the articles have been obtained from a cemetery
- (7) Beer kegs
- (8) Public property as defined in Sec. 14-137 (b)

(b) Every person licensed hereunder shall keep for a period of three (3) days, old metals not included in subsection (a) purchased or received in a single transaction.

(c) During said holding periods such property shall be kept separate and distinct and shall not be disfigured or treated in any way by which its identity may be destroyed or affected.

(d) Items purchased or sold under this article shall have no holding period if they are not included in subsection (a) and:

- (1) The transaction is for loads weighing 500 pounds or more in weight; or

(2) The load is purchased from a municipality or governmental entity under contract with a licensee; or

(3) A photo identification system for transactions is utilized. For purposes of this section a photo identification system shall be defined as a system that captures digital images of each transaction, including the items contained in the transaction, the vehicle used to transport the items, and the vehicle license plate information. The record of each image also must contain the documentation required in Section 14-134 (a) (1) through (a) (5).

Sec. 14-137. Acquisition of public property.

(a) A licensee shall not accept any public property as defined in Sec. 14-137 (b) unless a certificate of release from a governmental entity is provided at the time of transaction. The certificate shall list the exact description and quantity of items, and the location from which the items were removed, and shall include the seal of the governmental entity and the signature of a duly authorized governmental official. The certificate shall be kept with the items identified therein for a period of ten (10) days. A licensee shall immediately notify the police department of any individual attempting to sell public property without authorization from a governmental entity.

(b) Public property, for the purposes of this section, shall be defined as property owned and maintained by a municipality, the state, the United States, or any quasigovernmental entity, and shall include but not be limited to items associated with public streets and sidewalks, as follows:

- 1) Manhole covers, or other types of utility access covers including, but not limited to, water line maintenance covers
- 2) Highway and street signs
- 3) Street light poles and fixtures
- 4) Guardrails for bridges, highways, and roads
- 5) Historical, commemorative, and memorial markers and plaques, including but not limited to WPA (Works Progress Administration) plaques
- 6) Traffic directional and control signs and light signals

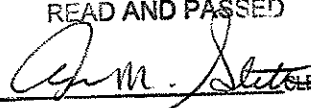
(c) A licensee found in violation of Sec. 14-137 shall be cited by the police department, fined \$500, and be required to appear for a show cause hearing before the board of licenses. Upon finding a violation has occurred, the board of licenses shall impose a 90-day suspension of license. Additional penalties may be determined by the board of licenses, in accordance with Sec. 14-138.


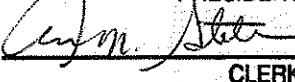
Sec. 14-138. - Enforcement and penalties

The Providence police department shall enforce the provisions of this article. If an alleged violation occurs, the police department shall issue a citation that will require the license holder to appear for a show cause hearing before the board of licenses. If, after a hearing, the board finds a violation has occurred, the board shall impose a civil fine of one hundred and twenty-five dollars (\$125) for the first offense, two hundred and fifty dollars (\$250) for the second offense, and five hundred dollars (\$500) for any subsequent offense. Additionally, the board may suspend or revoke the license for any violations of the conditions or restrictions imposed upon the issuance of such license, or any rules and regulations governing the conduct of any such licensee, established by the board of licenses, or by the state; in addition, such license may be revoked at any time for causes other than those specified above, including violation of any other provision of the Code of Ordinances. If a license holder maintains the license for thirty-six (36) consecutive months without a violation, any new violation will be treated as a first offense.


Secs. 14-139—14-154. - Reserved.

SECTION 2. This ordinance shall take effect upon passage.

IN CITY COUNCIL
JAN 03 2013
FIRST READING
READ AND PASSED
 CLERK

IN CITY
COUNCIL
JAN 17 2013
FINAL READING
READ AND PASSED
 PRESIDENT
 CLERK

I HEREBY APPROVE.


Mayor
Date: 1/24/13