

# Sample – Scrap Metal Recycling Facilities Ordinance<sup>1</sup>

## Purpose

The purpose of this article is to regulate the conduct and activities of scrap metal recycling facilities as defined herein, in order to reduce and curtail criminal activities frequently engendered by such businesses; to aid the police department in detection and prevention, and to ensure fair dealing between the recycling center and their customers.

## Definitions

In this chapter, the following terms shall have the indicated meanings:

“Deceptive Business Practices” shall mean any of the following:

1. Any use or possession of a false weight or measurement, or any other device for falsely determining or recording any quality or quantity in connection with any scale or service;
2. Any sale or offer to sell or delivery of less than the represented quality or quantity;
3. Any attempt to take more than the represented quantity of any commodity, when as buyer or broker, he furnishes the weight or measure;
4. Any service which is of an unreasonably lesser quality than the service offered or represented;
5. Any other practice designated as unlawful by O.C.G.A. 10-1-390 et seq.;
6. Any other fraudulent business transaction that is made punishable by the laws of the State of Georgia.

“Scrap Metal / Secondary Metals Recycler” shall mean any person operating from a fixed location or otherwise in the business of paying compensation or in any way buying, selling, exchanging, trading, or dealing in scrap iron, brass, wire, cable, copper, lead, solder, motor vehicles or second-hand metals of any sort, including catalytic converters, and automobile parts.

“Scrap Metal Recycling Facility” refers to an area used to receive, process, or store any form of metal that is already scrap for recycling or reuse, and which handles, removes, or disposes of waste as part of the processing. The definition shall include the area within an automobile recycling facility within which vehicles are drained, dismantled, sorted or recycled.

“Ferrous Metals” shall mean any metals containing significant quantities of iron or steel.

“Non-Ferrous Metals” shall mean any metals not containing significant quantities of iron or steel, including without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel and alloys thereof.

“Regulated Metal Property” shall mean any item(s) composed primarily of any nonferrous metals, but shall not include aluminum beverage containers of individual serving capacity, (ie aluminum cans).

“Regulated Article” shall refer to any of the following:

---

<sup>1</sup> This “sample” policy is provided by Chief Dan Flynn of the Marietta Police Department. For additional information please contact the Marietta Police Department at 770.794.5300.

1. any metal article stamped, engraved, stenciled, or otherwise marked so as to identify it as having been the property of a governmental entity or public utility.
2. any hard drawn copper electrical conductor, cable, or wire greater than three eighths of one inch in diameter (3/8), stranded or solid;
3. any aluminum conductor, cable, or wire greater than three quarters of an inch (3/4) in diameter, stranded or solid;
4. any and all monument plaques, statues/sculptures composed of any metal, urns, or flower vases of any type metal.
5. any containers used to store and dispense beverages of more than one individual serving such as a beer keg or commercial soft drink dispenser.

“Transaction Ticket” shall mean a physical piece of paper bearing the customer’s identification, latent print, and signature, and a description of the material purchased. These will be sequentially numbered with no break in that sequential number series. This form will also bear a statement on the reverse of the customers right to sale the listed materials.

“Accepted identification” shall mean a VALID Driver’s License or Identification Card issued by one of the 50 United States, or a branch of the U.S. Military, i.e. Army, Navy, Air Force Marines, or Coast Guard. The identification must as a minimum bear a true photograph of the person presenting it, date of birth, a description of the person, and an address for the person. No foreign identification and no passports of any type are acceptable. This identification will be physically presented for each transaction. If the identification is not Georgia issued the employee will request the customer supply a local address to be used rather than the address listed on the out of state identification.

“Good moral character” means a person is of good moral character according to this article if that person has not been convicted of any felony or any crime involving theft, fraud or a crime against property in the past ten years.

“Minor” for the purposes of this article shall mean any person who has not attained the age of 18 years.

“Occupation tax certificate” means permission to operate a pawnshop pursuant to grant by the city council for the City of \_\_\_\_\_.

“Permit” means permission to be employed or work in a pawnshop regulated by the police department.

“Motor Vehicle” shall mean any self - propelled vehicle originally manufactured to include an engine of any kind which propels the vehicle across the ground on wheels, tracks, or any combination thereof.

“Law Enforcement Officer” shall mean any duly constituted Peace Officer of the State of Georgia or of any county, municipality, or political subdivision thereof.

“Person or Customer” shall mean an individual, partnership, corporation, joint venture, trust, association, and any other legal entity bringing materials either ferrous or non-ferrous or motor vehicle to the scrap metal recycling facility in exchange for monetary reward.

“Police department” means chief of police or his designee.

“Penalties” may be monetary, jail time, or both, as well as civil actions against the applicant’s permit and/or occupation tax certificate for failure to comply.

“Purchase Transaction” shall mean a transaction in which a secondary metals recycler gives financial consideration for regulated metal property.

### **Employee permit required**

No licensee under this code section, or employee as defined in (insert your jurisdiction’s code section), shall act as a scrap metal/secondary metals recycler within the City of \_\_\_\_\_ without first applying for and obtaining a permit to be employed or work in a scrap metal recycling facility. Such permit shall be obtained from the police department. The permit fee for each employee shall be \_\_\_\_\_, renewable annually. This permit is in addition to the business license obtained through the City of \_\_\_\_\_, Business License Office.

**Note:** Operating as a scrap metal/secondary recycler without both the business license and the permit will be a violation of this ordinance and will result in a fine up to \_\_\_\_\_ per violation.<sup>2</sup>

### **Scrap Metal Recycling Facility Employees**

- A. Qualifications. Employees of a scrap metal recycling center shall not be less than 18 years of age. Any employee who has been convicted of any felony or any crime involving theft, fraud or against property shall not be permitted to work on the premises in a position dealing with personal identification data of any persons, for a period of ten (10) years from the date of conviction unless a longer time has been ordered by a court of competent jurisdiction. Owners/Managers/Supervisors at the recycling facility must be able to provide physical proof of the legal right of any person working at that location to be employed in the State of Georgia.
- B. Approval for employment. Before any person may work on the regulated premises in a position dealing with personal identification of any persons, he or she shall file a notice with the police department of their intended employment on forms setting out the information required for the application process. An investigation fee of \$ \_\_\_\_\_<sup>3</sup> shall accompany the notice of intended employment, or a receipt of the permitting officer evidencing the payment of such fee at the time the notice is filed. Each person must be fingerprinted by the police department. The City shall have 45 days to investigate the information submitted by the employee. If the employee is found to be of good moral character the police department shall grant an approval of employment; and issue an annual personal identification card authorizing the person to be employed by the recycling facility. It shall be the duty of the employee to assure that the provisions of all sections are complied with. The employee is required to notify the police department of any change in information or circumstances that has occurred since the original approval was granted. If approval is denied, the prospective employee may, within ten (10) days of said denial, apply to the police department for a hearing. The omission of information required may be grounds for denial of the permit. The decisions of the hearing may be appealed to the city council who shall issue such order as is required.

---

<sup>2</sup> In Marietta, the amount is \$1,000. 00

<sup>3</sup> In Marietta, the amount is \$50.00

- C. Suspension, revocation of the permit. Conviction of violating the provisions of this article or any other ordinance of the City of \_\_\_\_\_, rules or regulations of the city or conviction of any felony or any crime involving theft, drugs, fraud or a crime against property shall subject the employee to suspension or revocation of said permit.
- D. Renewal of permits. Scrap metal recycling facility employee permit are to be renewed annually. The expiration of the permit will be one year to date from the date of issuance. The renewal fee for the employee permits shall be \$\_\_\_\_. <sup>4</sup>
- E. Independent Contractors. For the purpose of this article, independent contractors handling personal identification data of any person shall be considered employees and shall be permitted as employees, regardless of the business relationship with the owner or occupation tax certificate holder of any scrap metal recycling facility.

### **Operation of Unregulated Premises Unlawful**

Refer to City Ordinance \_\_\_\_\_.<sup>5</sup>

### **Renewal of Occupation Tax Certificate**

Renewal applications shall be submitted by January 1 of the year for which such occupation tax certificate is required. The applicant must file a verified annual report showing the applicants gross receipts and the amounts paid to the employees for the preceding calendar year and such shall be submitted with the renewal application. The applicant must continue to meet the requirements set out in this article.

### **Occupation Tax Certificate Non-Transferable**

Refer to City Ordinance \_\_\_\_\_.<sup>6</sup>

### **Unlawful Operation Declared A Nuisance**

Refer to City Ordinance \_\_\_\_\_.<sup>7</sup>

### **Application for Occupation Tax Certificate — Review By City Council**

Refer to City Ordinance \_\_\_\_\_.<sup>8</sup>

### **Denial of an Application**

Refer to City Ordinance \_\_\_\_\_.<sup>9</sup>

### **Considerations in Granting Application**

Refer to City Ordinance \_\_\_\_\_.<sup>10</sup>

### **Change of Location, Name, or Other Information**

Refer to City Ordinance \_\_\_\_\_.<sup>11</sup>

---

<sup>4</sup> In Marietta, this amount is \$50.00.

<sup>5</sup> In Marietta, the reference is 8-12-12-050.

<sup>6</sup> In Marietta, the reference is 8-12-12-070.

<sup>7</sup> In Marietta, the reference is 8-12-12-080.

<sup>8</sup> In Marietta, the reference is 8-12-12-100.

<sup>9</sup> In Marietta, the reference is 8-12-12-110.

<sup>10</sup> In Marietta, the reference is 8-12-12-120

## **Appeal Procedure**

Refer to City Ordinance \_\_\_\_\_.<sup>12</sup>

## **Revocation and Appeal of Occupation Tax Certificate and/or Permit**

Refer to City Ordinance \_\_\_\_\_.<sup>13</sup>

## **Transaction Records to Be Maintained**

All transaction information will be maintained on the business computer system and the original paper copy of each transaction ticket will be maintained at the facility for a period not less than two (2) years. Both the computer records for these transactions and the paper transaction tickets will be available for law enforcement inspection and examination during all normal business hours. All required information will be machine printed or typed onto the transaction ticket, no hand written forms accepted. Every recycler shall have the affirmative duty to enter the following on the ticket:

- A. The date of the transaction;
- B. The name of the employee completing the transaction;
- C. A detailed description of the materials purchased from the customer. The appropriate codes identifying the materials will also be used such as #1 copper, #2 copper etc., the weights, quantity or volume of each material purchased. All catalytic converters will be named as such as well as the quantity;
- D. The name, date of birth, race, sex, height, weight, hair color, Georgia address, phone number, type identification (DL or ID), State of issue, and the identification number;
- E. The vehicle license plate number, state of issue, and the type of vehicle used to deliver the material to the recycle facility;
- F. The price paid out for the materials purchased;
- G. If payment is made by check, include the check number;
- H. The signature of the customer.
- I. The applicant shall maintain and retain on the business premises, for a period of two (2) years the names, addresses, and date of birth of all persons currently or previously employed by such applicant both full time or part time.

---

<sup>11</sup> In Marietta, the reference is 8-12-12-130.

<sup>12</sup> In Marietta, the reference is 8-12-12-140.

<sup>13</sup> In Marietta, the reference is 8-12-12-150.

## **Daily Report to Police**

Every applicant operating as a scrap metal recycler within the city limits of \_\_\_\_\_ as of (**specify date**) and any future applicants wishing to operate as a scrap metal recycler will be required to perform electronic daily reporting via internet email or as directed by the Police Department of the City of \_\_\_\_\_. Every applicant will make a daily report to the police department or agent thereof, of all property received, bought or otherwise acquired by the applicant during the previous 24 hours, ending at 6:00 PM on the date of the report. Such report shall be submitted electronically and shall contain the following information at a minimum:

- A. Name and address of the facility;
- B. Time of transaction;
- C. Sequential number of transaction ticket;
- D. Amount paid for materials purchased;
- F. Full description of the person selling the materials to include, name, address, race, weight, height, date of birth, phone number, type of identification, issuing state, vehicle license plate number, type of vehicle;
- G. Detailed description of materials purchased, including quantity/weight.

## **Receipt of Goods from Minors Unlawful**

It is unlawful for any employee, manager, supervisor or owner of a recycling facility operated within the City of \_\_\_\_\_ to accept any material/items from a minor with the exception of aluminum beverage cans.

## **Police Holds on Materials Purchased**

Whenever a Law Enforcement Officer shall have probable cause to suspect any property listed in the report is stolen property or constitutes evidence of a crime or that any individual has committed a crime or that possession of the property is criminal, the applicant shall be notified in writing not to sell, destroy, alter or remove the property from the physical boundaries of the recycling facility for a period of 15 calendar days. Prior to the expiration of the 15 day hold period the police department can issue a second notice to hold the items for an additional period of 30 calendar days. These hold notices will be in writing and will specifically identify the items and the specific transaction number to be held. Failure to comply with this section will result in the manager/owner of said facility being charged with violating this section of the ordinance which constitutes a misdemeanor and is punishable with a fine up \$1,000.00 and a civil suspension of the applicant's work permit.

## **Identification Required**

Each applicant shall require that any person pawning, pledging, or selling an article or articles shall display evidence of acceptable identification such as a duly issued state drivers' license or identification and the applicant shall record the driver license number or other number of such evidence of identification on the required form for the transaction.

The applicant or his/her employee will have the affirmative duty to compare all pictures, physical descriptions and signatures on the identification presented and shall not transact any business with a person who appears to be presenting false or altered identification. If the identification presented is not a State of Georgia issued identification the applicant will have the affirmative duty of providing the listed address from the identification as well as a current Georgia address on the transaction paperwork. The applicant is required to check the customer's identification for each transaction. If the pawnshop records show identification other than that presented this must be corrected during the current transaction.

### **Penalties for Violation**

Any person violating the provisions of this article shall be guilty of a misdemeanor punishable by a fine not to exceed \$\_\_\_\_\_ <sup>14</sup> per violation or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. In addition to such fine or imprisonment, any person failing to comply with any provision of this article, or other laws, ordinances, or regulation as may be passed by city council in regulating the business of a scrap metal recycling facility, shall be grounds for immediate suspension or revocation of the occupation tax certificate issued hereunder.

### **Conflict of Interest for City Employees**

City Ordinance \_\_\_\_\_ <sup>15</sup> sets forth the requirements.

### **Special Consideration for Certain Transactions**

- A. Every applicant shall immediately notify the police department by telephone (911) without delay if any person attempts to sell, purchase or has possession of any materials which reasonably appear to be used only by governments, utilities, railroads, or for specific purposes, such as guardrails, manhole covers, fire hydrants, aluminum irrigation pipe, high voltage transmission lines, historical markers, cemetery plaques/vases/urns, light poles, power boxes, parking meters and bleachers.
- B. Every applicant shall have the affirmative duty when accepting **any motor vehicle** in as scrap material to **physically check and record the VIN** information from said vehicle, along with vehicle type, manufacture, model, color. Any license plate attached to said vehicle will be removed from said vehicle and returned to the issuing state as required by law. No applicant will allow or accept the listed information from the person selling the vehicle as scrap without physically confirming the required information. All motor vehicles will be maintained separately on site, undamaged and unprocessed until the VIN information can be confirmed and checked through NCIC by a \_\_\_\_\_ Police Department officer. Any applicant failing to follow the requirements of this section will in violation of this article and will be charged as such. If applicant has another employee physically check this information then applicant must list that employee on the transaction ticket.
- C. **Every applicant will cause all catalytic converters purchased to be held separately from the rest of scrap materials purchased and will cause the**

---

<sup>14</sup> In Marietta, the amount is \$1,000.

<sup>15</sup> In Marietta, the reference is 8-12-12-200.

**transaction number to be affixed to said catalytic converters. All catalytic converters will remain on site for** five (5) working days prior to being processed and removed for sale. Any person bringing more than one (1) catalytic converter over a three (3) month period in for sale will be paid by business check or voucher to be claimed after three (3) working days.

- D. No applicant will accept or purchase any type of sculpture made of any type metal, any article which in any way appears to be related to cemetery artifacts such as head stones, plaques, flower vases, urns, or items normally related to religious signs or symbols which often would be displayed at a place of worship.

### **Hours of Operation**

Hours of operation for scrap metal recycling facilities located within the City of \_\_\_\_\_ city limits is set forth as Monday thru Saturday between the hours of 6:00 AM and 7:00 PM. This will include all work receiving scrap metal materials from customers as well as processing any materials already located at the facility. It is unlawful to violate this section.

### **Prohibited Practices**

It shall be unlawful for any person selling regulated metal property to a secondary metals recycler to give a false statement of ownership or to give a false or altered identification or vehicle tag number and receive money or other consideration from a secondary metals recycler in return for regulated metal property.

**NOTE:** Both persons selling to scrap metal recycling facilities and applicants of the scrap metal recycling facility can be charged under the Official Code of Georgia with either Felony Theft by Receiving or Misdemeanor Theft by Receiving depending upon the dollar value of any stolen property in their possession instead of under the violation provisions of this article.