

# Ordinance No. 797-14

Council Members Zone and Kelley  
(by departmental request)

## AN EMERGENCY ORDINANCE

To amend Sections 676.02 and 676.063 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to secondhand dealers.

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WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Sections 676.02 and 676.063 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 2704-A-90, passed June 15, 1992, and Ordinance No. 329-11, passed April 25, 2011, are amended to read as follows:

Section 676.02      License Required; Display

No person, firm or corporation shall engage in the business of junk dealer or scrap metal processor or secondhand dealer or operate a junk cart or scrap metal processing facility unless and until licensed as provided in this chapter. Upon receipt of a junk dealer license or a scrap metal processor license or secondhand dealer license issued pursuant to this chapter, the licensee shall post the license or a copy thereof in a conspicuous publicly-accessible place at the licensee's place of business and at all other locations where the licensee stores junk or scrap metal or secondhand articles.

Section 676.063      Exempt Transactions

Sections 676.06 and 676.061 do not apply with respect to any of the following:

- (a) The donation, purchase, sale or exchange of articles to or conducted by charitable nonprofit organizations;
- (b) The sale or donation of common recycled matter;
- (c) Sales transacted between a scrap metal dealer and an organization that is exempt from federal taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 285, 26 U.S.C. 501(c)(3), as amended, and that collects, for its own fundraising purposes, scrap ferrous and nonferrous metals for recycling rather than disposal;
- (d) Sales transacted between a scrap metal dealer and a government unit or another business, including a demolition company, public utility company, or another scrap metal dealer, on the condition that the government unit or business satisfies the following criteria:

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(1) In the course of providing the government unit's or business's services to others or maintaining the government unit's or business's property, whether onsite or offsite, the government unit or business generates scrap ferrous and nonferrous metals for recycling rather than disposal;

(2) If the sales transaction involves a government unit, reference to the government unit as a bona fide unit of government can be readily found by the public;

(3) If the sales transaction involves a business, the business satisfies one (1) of the following criteria:

A. The business is registered with the secretary of state;

B. The business has been issued a license under RC 5739.17;

C. The business advertises its services in a newspaper of general circulation once a week for not less than six (6) consecutive months or provides a receipt showing payment for such advertising, a telephone book, electronic media that is available to the public, or some other type of media that is owned and operated by a person other than the business and, if an individual operates the business, the individual advertising the business has a specific place of business that is not the individual's permanent home residence.

(4) The government unit provides proof of compliance with division (d)(2) of this section or the business provides proof of compliance with division (d)(3) of this section to the scrap metal dealer with whom the government unit or business transacts business.

(e) Sales transacted between a scrap metal dealer and a person whose primary business is to create products that result in bulk quantities of ferrous and nonferrous metal used for recycling rather than disposal.

(f) Sales of catalytic converters transacted between a scrap metal dealer and a motor vehicle dealer as defined in RC 4517.01.  
(RC 4737.043)

Section 2. That existing Sections 676.02 and 676.063 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 2704-A-90, passed June 15, 1992, and Ordinance No. 329-11, passed April 25, 2011, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

RC:nl  
6-9-14  
FOR: Director Dumas

