



# **Metal Recycling and Scrapping: Review of Licensing and Regulation**

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Prepared by the Legislative Reference Bureau

**Preliminary Report**

**August, 2014**

Report by the Legislative Reference Bureau reviewing the issues of metal recycling, scrapping and theft in Milwaukee, including the identification of the scope and impact of the problem, review of City, state, and federal regulation, and description of potential efforts to address it.

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**Metal Recycling and Scrapping**  
Review of Licensing and Regulation

City of Milwaukee, Wisconsin  
August 2014

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## I. EXECUTIVE SUMMARY

Metal theft can be loosely defined as the stealing of items for the value of their constituent metals. The stealing of valuable metal in the United States is an increasingly serious concern for state and local jurisdictions. For instance, between 2011 and 2013:

- Ohio (4,144 claims), Texas (2,827), California (2,489), Pennsylvania (2,345) and Georgia (2,067) topped the list of state metal theft insurance claims.
- Wisconsin ranked 28th, with 373 metal theft insurance claims.
- Expressed in terms of claims per capita, Wisconsin ranks 39th, with approximately 2.17 claims per 100,000 residents.

Although metal theft insurance claims have declined 26% since 2011 across the United States, metal theft continues to pose a significant risk to critical infrastructure in communities, and without a comprehensive method for tracking metal theft crime statistics, it is difficult to evaluate the impact of state and local legislation.

Even in areas where databases and reporting systems are in place, thefts may be reported under broader police categories of theft, vandalism or receiving stolen property, or not reported or recorded at all. **Additional data concerning the broad scope and impact of metal theft in the United States and in Wisconsin are provide in Section II of this report.**

Milwaukee, in particular, has recently taken steps to curb metal theft, but there remains room for improvement. Chapters 92 and 93 of the Milwaukee Code of Ordinances deal directly with the commercial regulation of scrap metals – including secondhand dealers, junk collectors and junk dealers, among others – and at least 9 separate licenses are required for different metal-dealing businesses.

Despite the seeming exhaustiveness of local regulation, however, loopholes may exist, and some ambiguity may surround certain metal transactions. Streamlining of regulations may be necessary. **City of Milwaukee regulations are addressed in Section III of this report.**

In addition, although the City has implemented the Northeastern Wisconsin Property Reporting System (NEWPRS) – the web-based database used to electronically manage and store purchases from salvage yards, among other businesses – this system does not preclude metal thieves from selling stolen materials outside City limits. A more inclusive system of state-wide

regulation may be needed. **Information relating to these and other policy considerations is provided in Sections IV and V.**

At the federal level, the FBI occasionally investigates and prosecutes large-scale scrap theft, and has also brought charges of cargo theft, copper theft, and vehicle theft against certain perpetrators, especially those guilty of interstate transport of stolen property. Several federal laws have been proposed in recent years; however, the issue of metal theft has, for the most part, been largely left to local jurisdictions to address. **Brief overviews of federal and other efforts to combat metal theft are provided in Sections VI and VII, respectively.**

Tackling the metal theft problem in Milwaukee will not be an easy task, but numerous approaches are available to local policy makers, law enforcement and the community. For instance, formal and informal proposals in recent years have included the itemization of large truckloads of junk, placing limits on cash transactions, establishing tax-reporting requirements and increased security measures at vacant properties. Community engagement has also been suggested as a deterrent to metal theft, as has the need to more clearly establish a level of junk collection activity requiring licensing. **These and other options are described in the conclusion of this report, Section VIII.**

## II. INTRODUCTION

### A. Defining the Problem.

Increases in scrap metal prices over the past decade – particularly the steep price increases of copper in the mid-2000s – have increased the value of metal items and, subsequently, the number of related thefts. According to a 2009 Electrical Safety Foundation International (ESFI) report,<sup>1</sup> *“prior to the recent major economic downturn, worldwide economic growth over the last few years has sent the demand, and consequentially the price, of copper skyrocketing. This, in turn, seemed to ignite a problem that had been simmering for decades – utility copper theft.”*

Other researchers have also noted other factors putting items at higher risk for theft. For instance, Ronald Clarke coined the acronym CRAVED<sup>2</sup> (concealable, removable, available, valuable, enjoyable and disposable) to describe product attributes increasing the risk of theft. Researchers at the University of Indianapolis, however, have also noted that:

A buyer of these stolen metal goods...is necessary for the disposal of the items, which, unlike other stolen items like electronics and clothes, are not usually enjoyable themselves. Also unlike electronic goods and other items, the resale of metal items, such as catalytic converters, copper plumbing and wires, and aluminum siding requires a rather specialized second-hand market.<sup>3</sup>

A 2010 Office of Community Oriented Policing Services (COPS) report<sup>4</sup> further elaborates on the problem of scrap metal theft, noting that – unlike gold or silver, which tends to have intrinsic value in its original shape – metals such as copper, aluminum, brass, zinc, nickel, platinum and bronze *“have value only when sold to a scrap metal dealer who arranges for the metal to be melted and reshaped for other uses.”* The report further notes that *“the scrap metal theft problem is driven entirely by the ability to sell stolen goods to recyclers, and often these recyclers facilitate crime.”*

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<sup>1</sup> Electrical Safety Foundation International. 2009. *Copper Theft Baseline Survey of Utilities in the United States.*

<sup>2</sup> Clarke, R.V. 1999. *Hot products: Understanding anticipating and reducing demand for stolen goods.* Police Research Series Paper 112. London, England: Home Office Policing and Reducing Crime Unit.

<sup>3</sup> Whiteacre, Kevin W. November 5, 2009. *Scrap Yards and Metal Theft Insurance Claims in 51 U.S. Cities.* University of Indianapolis Community Research Center, Research Brief #2.

<sup>4</sup> Kooi, Brandon R. 2010. *Theft of Scrap Metal: Problem-Oriented Guides for Police, Problem-Specific Guides Series No. 58.* U.S. Department of Justice, Office of Community Oriented Policing Services.



## B. General Scope & Impact of the Problem.

The ESFI report (derived from a survey of 3,100 utilities, 618 of which responded) showed that in 2008, there were 18,400 individual copper theft incidents at United States utilities. The cumulative repair costs for these thefts were over \$22 million. ESFI further estimated that more than 90% of the nation's utilities experienced copper theft in 2008.

The U.S. Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability, which "*monitors changes, threats, and risks to the energy infrastructure in the United States,*" has also been cited in several recent news sources as estimating that metal theft (particularly copper) costs U.S. businesses approximately \$1 billion annually as a result of power outages, revenue losses, and repair costs.<sup>5</sup>

Interestingly, although the collective impact of metal theft appears to be significant, scrap metal theft is typically an opportunistic crime of smaller individual proportions. Although rates of theft vary across the United States, metal thieves typically target vacant or foreclosed homes, construction sites and other relatively accessible and unsupervised areas. Generally, thieves sell these metals for a small amount of cash (relative to the damage caused) at scrap metal yards, where the products are melted and reshaped for other uses. According to a 2010 report from the DOE,<sup>6</sup> "*the vast majority of [copper] thefts result in very minor monetary costs [to utilities].*"

The National Insurance Crime Bureau (NICB) has further identified trends among states. According to a May 2014 news release,<sup>7</sup> "*The NICB sees hopeful evidence that the national problem of metal theft might be decreasing.*" According to the NICB, which reviewed data from January 1, 2011, to December 31, 2013, metal theft insurance claims<sup>8</sup> have declined 26% since 2011 (see Figure 1, page 10).

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<sup>5</sup> This figure could not be substantiated by the LRB, although it is widely referenced in news and other sources.

<sup>6</sup> U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability. October 2010. *An Updated Assessment of Copper Wire Thefts from Electric Utilities.*

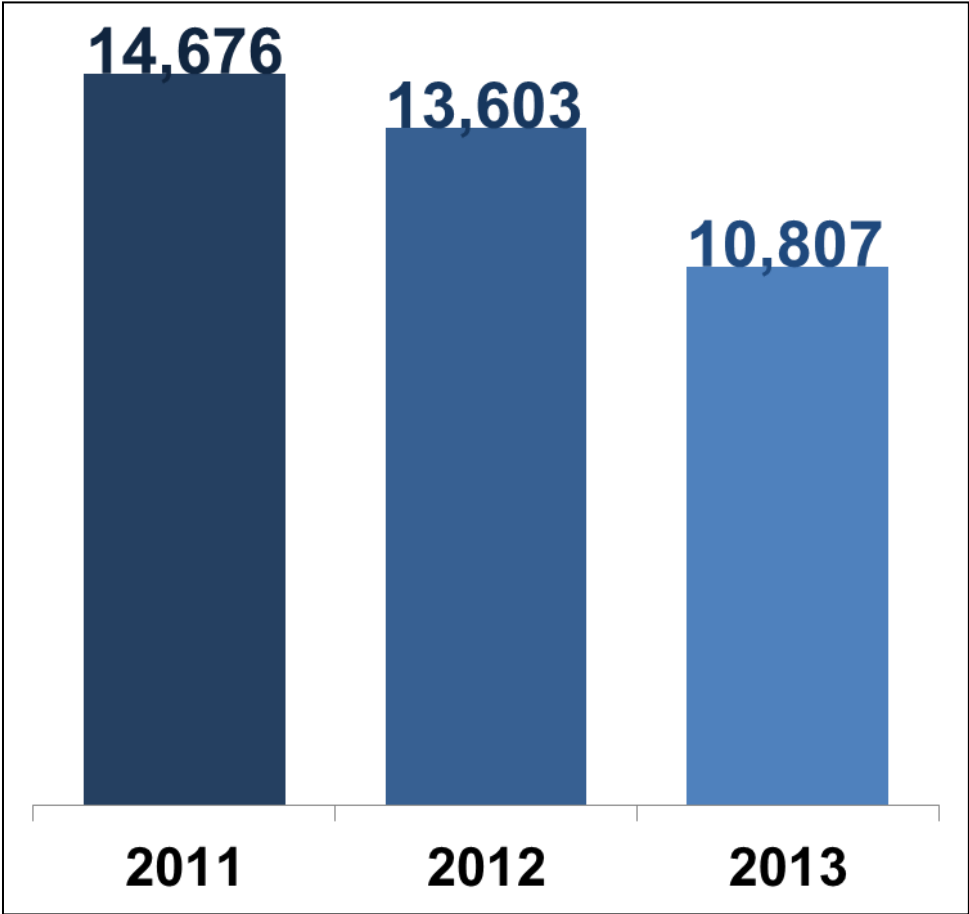
<sup>7</sup> National Insurance Crime Bureau . May 8, 2014. *Insured Metal Theft Claims See Three-Year Decline.* NICB News Release.

<sup>8</sup> Insurance claims were identified through a keyword search of data from the Insurance Services Office (ISO) ClaimSearch database using the terms "cop," "brass," "bronze" or "alum," in addition to the terms "stole," "theft," "thieves," "took," "steal" or "missing." The NICB notes that "there is no exact method for extracting metal theft claims from ISO ClaimSearch."

Between 2011 and 2013, Ohio (4,144 claims), Texas (2,827), California (2,489), Pennsylvania (2,345) and Georgia (2,067) topped the list of claims per state from homes and businesses. Wisconsin ranked 28<sup>th</sup>, with 373 metal theft insurance claims. Expressed in terms of claims per capita, Wisconsin ranks 39<sup>th</sup>, with approximately 2.17 claims per 100,000 residents.<sup>9</sup> See Figure 2, page 11. Finally, the report notes that 97% of claims were for copper and that “*the number of claims filed is found to have a statistically significant correlation with the price of copper.*”

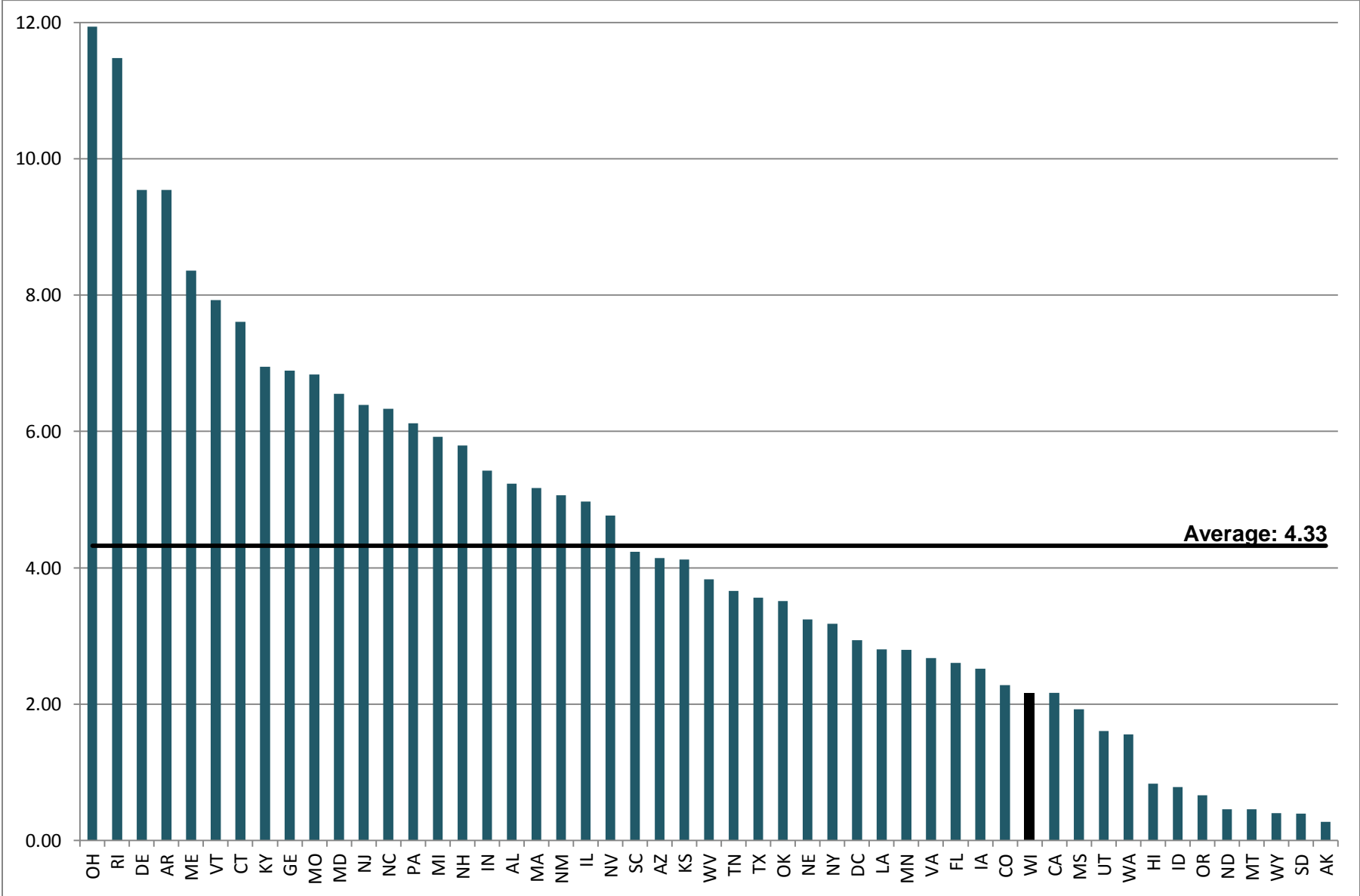
The risk in relying on insurance claims as an indicator of metal theft rates is that the theft of metal may be underreported. For instance, the value of the damaged property may not be sufficient to warrant an insurance claim or the property or equipment may not be insured at all. Regardless, these data do appear to show trends in metal theft within and across the United States.

**Figure 1. Total U.S. Metal Theft Insurance Claims, 2011 to 2013.**



<sup>9</sup> Claims per capita were derived by dividing the average number of claims per year between 2011 and 2013 for each state by its 2013 population, then multiplying by 100,000.

Figure 2. Metal Theft Insurance Claims per 100,000 Residents, by U.S. State.



### C. Additional Considerations.

The problem of scrap metal theft in the United States arguably became most prominent in the mid-2000s, as scrap metal prices increased considerably. However, little systematic research appears to have been performed to determine generalized causes, according to the 2010 COPS report.

Part of the reason solid numbers on the scope and costs of scrap metal theft are difficult to pin down is because no single, comprehensive database exists to compile this data. In addition, even in areas where databases and reporting systems are in place, thefts may be reported under broader police categories of theft, vandalism or receiving stolen property, or not reported or recorded at all.

A 2014 report by the Council of State Governments<sup>10</sup> further notes that *“the data just aren’t there. No state is comprehensively tracking metal theft crime statistics. While some local jurisdictions are collecting their own data, those data have a number of limitations when it comes to evaluating the impacts of state legislation.”*

The 2010 COPS report, however, does note that:

Communities facing scrap metal theft problems might seek help from university researchers to analyze data about the problem. Indianapolis police partnered with the University of Indianapolis Community Research Center to collect data on scrap metal thefts. In this collaborative effort, known as the Indianapolis Metal Theft Project, researchers gathered and analyzed a wide variety of data related to the costs and types of scrap metal theft so that police could apply improved strategies to the problem.

In addition to listing cities with the most claims (Cleveland, Ohio; Detroit, Michigan; Chicago, Illinois) and most claims per population (Cleveland; Flint, Michigan; Birmingham, Alabama) the study also found that the greater the number of scrap yards in a city, the greater the number of metal thefts.<sup>11</sup> However, the researchers noted several caveats to their findings and emphasized the value of collaborative efforts among various stakeholders.

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<sup>10</sup> Burnett, Hull and Kussainov. May 2014. *Is Scrap Metal Theft Legislation Working for States?* The Council of State Governments.

<sup>11</sup> See: Whiteacre, Kevin W. November 5, 2009. *Scrap Yards and Metal Theft Insurance Claims in 51 U.S. Cities.* University of Indianapolis Community Research Center, Research Brief #2.

In another effort to study the problem, the DOE used a combination of open-sourced references, news articles and press releases, insurance claims, and the Institute of Scrap Recycling Industries Incorporated (ISRI) “scrap theft alert” database to estimate the number of metal thefts in the United States (particularly copper) and their related costs.

According to its 2010 report, “*Since the beginning of the 2004 spike in copper prices, copper theft and copper prices have been directly linked. Although this link continues today, the rate of thefts as a function of the upward pull of prices has been mitigated.*” According to a July 2013 CNBC news article,<sup>12</sup> copper futures traded at 80 cents per pound 10 years ago on the Chicago Mercantile Exchange, but increased to approximately \$4 per pound by 2006. Copper is currently trading for approximately \$3.27 per pound. Figure 3 on page 14 illustrates these trends.

Other data sources may also point policy makers toward effective solutions, albeit indirectly. For instance, the scrapping of metals may be at least partially the motivation behind automobile theft or damage. Catalytic converters can contain between 3 and 7 grams of the precious metal platinum, which was trading at approximately \$1,470 per troy ounce on the New York Mercantile Exchange, as of July 24, 2014.

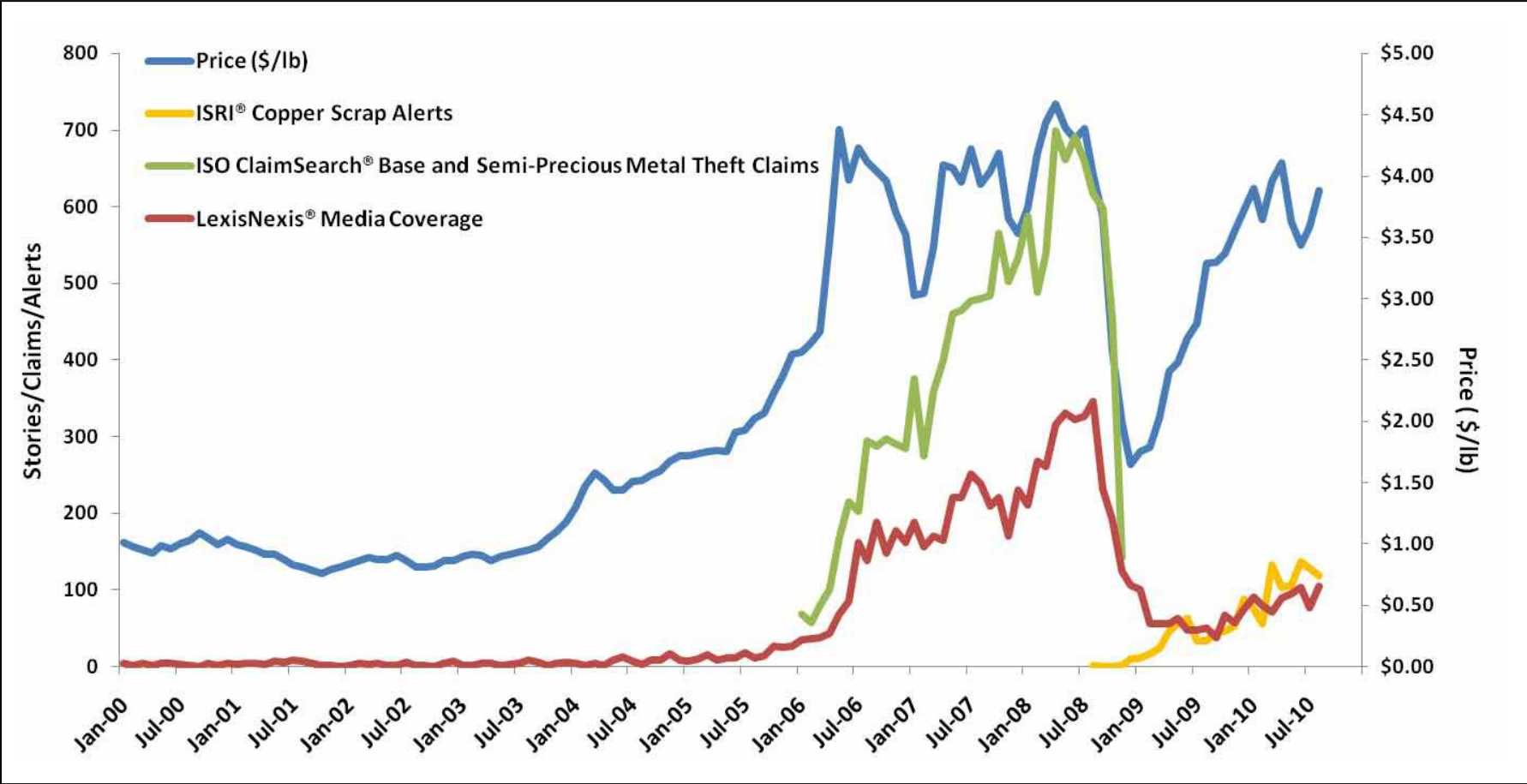
For comparison, in 2002 platinum traded for about \$600 per troy ounce and in 2008, it sold for over \$2,000 per troy ounce. It may not be surprising, then, that the Milwaukee-Waukesha-West Allis Metropolitan Statistical Area (MSA) has a higher rate of car theft (293.57 thefts per 100,000 residents, 59<sup>th</sup> worst rate overall in the United States) than any other Wisconsin MSA, surpassing even the Chicago-Naperville Elgin MSA (255.82 thefts, 82<sup>nd</sup> worst) and the Minneapolis-St. Paul-Bloomington MSA (183.98 thefts, 131<sup>st</sup> worst). Additional automobile theft rates for similarly-sized United States cities are provided in Table 1 on page 15.

In short, it appears that the ability to quickly convert stolen items into cash is an important factor in a potential thief’s decision to offend. In addition to the seemingly weak or uncoordinated regulation on metal resale, factors such as the high demand for certain metals and easy opportunities to offend have all combined to create a “perfect storm” for metal theft. Despite recent small declines in metal theft and collaborative efforts to combat metal theft for over a decade, local jurisdictions still face a significant problem, as the damage caused by metal theft is typically many times the value of the metal stolen.

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<sup>12</sup> Koba, Mark. July 30, 2013. *Copper Theft ‘Like an Epidemic’ Sweeping US*. CNBC.

Figure 3. Copper Theft Trends, January 2000 to August 2010.<sup>13</sup>



<sup>13</sup> Source: U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability. October 2010. *An Updated Assessment of Copper Wire Thefts from Electric Utilities*.

**Table 1. Automobile Thefts in Comparably-Sized U.S. Cities.**

CITY	CITY POPULATION	METRO POPULATION	RATE PER 100,000	U.S. RANK
Albuquerque	555,417	902,797	443.51	20
Austin	842,592	1,883,051	181.46	134
Cleveland	390,928	2,064,725	300.38	52
Columbus	809,798	1,967,066	200.81	114
Fresno	505,882	955,272	706.61	2
Indianapolis	834,852	1,953,961	362.24	37
Jacksonville	836,507	1,394,624	169.94	155
Kansas City	464,310	2,054,473	373.14	32
Las Vegas	596,424	2,027,868	393.81	27
Louisville	605,110	1,262,261	196.16	117
Memphis	655,155	1,341,746	242.89	88
<b>Milwaukee</b>	<b>598,916</b>	<b>1,569,659</b>	<b>293.57</b>	<b>59</b>
Nashville	624,496	1,757,912	135.44	211
New Orleans	369,250	1,240,977	303.23	51
Oklahoma City	599,199	1,319,677	440.34	22
Portland	603,106	2,314,554	298.80	54
Raleigh	423,179	1,214,516	124.25	238
Sacramento	475,516	2,215,770	412.77	24
Tucson	524,295	996,544	274.95	68
Virginia Beach	447,021	1,707,369	145.72	188

### III. CITY OF MILWAUKEE REGULATION

Numerous regulations relate to the buying and selling of scrap metal in the city of Milwaukee. Two chapters of the Milwaukee Code of Ordinances, in particular, deal directly with the commercial regulation of scrap metals: Chs. 92 and 93, titled “Secondhand Dealers” and “Secondhand Motor Vehicle and Auto Wreckers,” respectively.

In general, chapter 92 regulates secondhand dealers, junk collectors and junk dealers. Any of these 3 types of licensed businesses may engage in scrap metal purchasing. Specifically, this chapter of the code deals with the regulation of pawnbrokers (s. 92-1), secondhand dealer licensing (s. 92-2), junk collector and dealer regulation (s. 92-3), aluminum can recycling (s. 92-4), bicycle sale and resale records (s. 92-6) and precious metal and gem transactions (s. 92-10). Scrap metal regulations of chapter 92 will be described in more detail on page 17.

Chapter 93 of the code regulates metal scrapping activities not addressed in chapter 92, namely: secondhand motor vehicle buying, selling, exchanging or dealing and auto wrecking. Chapter 93 also regulates transactions involving bicycles, *“used or secondhand parts of motor vehicles and bicycles, and used or secondhand tires and batteries.”*

Various additional provisions deal with issues relating to metal scrapping, such as various zoning regulations, parking and towing regulations, fire prevention and the unauthorized removal of recyclables from recycling containers. Historical changes to these provisions, including Chapters 92 and 93, are described on page 27. Table 2 in the appendix provides more details concerning licensing requirements.



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## A. Chapter 92.

### 1. *General Regulation.*

Specific requirements for the identification of property, description of transactions and maintenance of records for secondhand dealers, junk collectors and junk dealers are included in ss. 92-11 to 13.

- Section 92-11 permits 9 types of identification documents that may be accepted by secondhand dealers, junk collectors and junk dealers if the document presented is current and unexpired. The section also provides penalties for presenting false identification.
- Section 92-11.5 prohibits anyone from pawning, pledging, selling, consigning, leaving or depositing “*any article of property with or to a licensed pawnbroker, secondhand dealer, junk collector, junk dealer or precious metal and gem dealer if*” the article is not owned by the person, if the article is the property of another person or if another person has a security interest in the article.
- Section 92-12 provides greater detail about the contents and maintenance of transcription description records applicable to secondhand dealers, junk collectors and junk dealers. In addition to the requirements included in ss. 92-2 and 92-3 (described below), each transaction description must include a color photograph or color video recording of each customer and each item. Photographs and videos are to be kept for 3 months.
- Section 92-13 requires secondhand dealers, junk collectors and junk dealers to report transcription records not later than the close of each business day by posting and uploading all transaction description records to an Internet website approved by the chief of police. Dealers must display a sign informing patrons that all transactions are reported to the police department daily through website postings. Dealers and collectors may be charged a \$100 daily penalty if they do not post within 3 days after correction of a technical malfunction involving the police Internet website.

### 2. *Secondhand Dealers, Specifically.*

Section 92-2 defines secondhand dealers as “*any person, firm, partnership, corporation or association operating, owning or leasing a fixed place of business for the purchase, sale or*

*exchange of any secondhand articles of personal property.”*

Articles of personal property are further defined as “*all articles of personal property except those specifically excluded.*” Excluded articles include motor vehicles (which are regulated under Ch. 93); coins, gold and silver; and secondhand industrial machinery and equipment (s. 92-2-2-c).

The regulation of secondhand dealers includes scrap yards, flea markets and estate sale establishments. These and other secondhand dealers are required to be licensed under s. 92-2-2. Notably, junk dealers and junk collectors have separate licensing requirements. These are described in greater detail on page 19 and following.

Additional notable provisions of chapter 92 regulating secondhand dealers include:

- Section 92-2-5-b establishes that “*no license shall be granted to any applicant who is not of good professional character or who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of being a secondhand dealer.*”
- Section 92-2-6 requires the following 9 activities of license secondhand dealers:
  - *Serial numbers:* No dealer may receive any item with an altered or obliterated serial number.
  - *Identification:* No dealer may purchase or accept on consignment any item without adequate identification from the seller or consignor (as per s. 92-11).
  - *Recordkeeping:* A dealer must keep a transaction description (as per s. 92-12).
  - *Transaction reporting:* Except for certain items, a dealer is required to report all transaction description report records (as per s. 92-13).
  - *Inspection:* Items received by a dealer must be available for police inspection.
  - *Holding period:* Except for certain items, a dealer must hold all items separate and apart from any other items for 10 days for inspection.
  - *Additional holding period:* The chief of police may, upon reason to believe the item was not sold or exchanged by the lawful owner, order the item to be held for an additional reasonable period.

- *Minors.* A dealer may not have any business dealings any person less than 18 years of age without the presence or written consent of a responsible adult.
- *Reporting.* A dealer must report to the police any item presented during the course of business if there is reason to believe the item was stolen.
- Section 92-3-9 establishes a penalty of between \$50 and \$1,000 for a first offense and between \$500 and \$2,000 for a second offense for any person, firm, partnership, corporation or association in violation of s. 92-2.

### 3. *Junk Dealers & Junk Collectors, Specifically.*

According to s. 92-3-2-b of the code, junk dealers include any “*person, firm, partnership or corporation that buys, sells, gathers, delivers or stores junk and maintains a yard or building.*” A junk collector is defined as any person who “*buys, sells, collects, gathers or delivers junk within the city as a business or employment but who is not a junk dealer within the city.*”

In 2007, Common Council File Number 070144 amended s. 92-3-2 of the code to define “business” (for the purpose of junk collection and junk dealing) as “*engagement in activities over time for the purpose of sustained financial gain.*” This definition excludes environmental cleanup activities organized by individuals or sponsored by nonprofit organizations and individuals engaged exclusively in the collection of aluminum cans.

The purpose of this clarification was, presumably, to provide the Milwaukee Police Department more leverage in the enforcement of junk collection regulation. For instance according an LRB memorandum released prior to the change, “*the 2-year term provided at s. 81-63 for a junk collector license suggests that, in context, junk collecting ‘as a business’ should be understood to occur over a period of time and not just occasionally.*”

Finally, according to s. 92-3-2-a of the code, “junk” is defined to mean “*used materials of any kind that may be recycled or converted to new materials or products.*” This definition includes ferrous and non-ferrous metals, plumbing materials, salvage gas and electric fixtures, and secondhand motor vehicles or the parts thereof.

In addition to some of the regulatory requirements of secondhand dealers – including serial number, seller identification, recordkeeping and reporting requirements (as per ss. 92-11 to

13), and the prohibition against sales to minors – junk dealers and junk collectors are subject to the following requirements in s. 92-2-8:

- *Manhole Covers*: No collector or dealer may purchase a manhole cover, including the lid, grate and frame, unless the seller provides documentation attesting to how, where and from whom the cover was acquired.
- *Recordkeeping (for non-regulated property)*: A collector or dealer must keep a transaction description record for any non-regulated property purchased. This transaction description record shall be retained for one year and include: a transaction number, date of transaction, printed name and address of seller, seller's junk collector or junk dealer license number, type and weight of the property purchased, a signed declaration of ownership from the seller, amount paid for the property and the seller's signature.
- *Location of records*: Collectors must locate and maintain transaction description records for non-regulated property as directed by the chief of police, and dealers must maintain transaction description records for non-regulated property purchases on the dealer's premises.
- *Maintenance of Records*: Dealers and collectors must retain written documents and maintain computerized files for one year.
- *Holding period*: Collectors and dealers must hold regulated property the police believe was not sold by the lawful owner for not more than 2 business days. The chief of police may direct that any property be held for 5 additional business days after the elapse of the initial 2-business-day holding period for identification by the lawful owner.
- *Signage*: In addition to the display of junk collector or junk dealer stickers issued by the city clerk, each motor vehicle used for junk collection or dealing is required to have identifying signs printed or affixed to both sides of the vehicle. These signs must be located prominently in letters 3 inches high or greater and must include the name of the business or person operating the vehicle, a valid phone number and the junk license number.
- *Parking*: As per s. 101-23.2-1-a of the code, no vehicle in which junk is collected or stored shall be parked or left standing on "the highways of the city" unless actively

engaged in loading or unloading junk.

Additional notable provisions of chapter 92 regulating junk collectors and dealers include:

- Section 92-3-8-e specifies that, in addition to recordkeeping requirements for non-regulated property, junk collectors and dealers shall keep a transaction description record for regulated property purchased. This paragraph specifically states that:  
*The description of the property purchased by junk collectors or junk dealers by the truckload or in bulk shall be limited to a listing of the quantity of the weight purchased by category of regulated property purchased, and shall be exempt from the property description provisions of ss. 92-6 and 92-12-2-b.” (subpar. e-1)*  
  
*Junk collectors and junk dealers making truckload and bulk purchases shall include a color photograph or color video record of the truckload or bulk purchase as a whole and not of individual items purchased, and shall be exempt from the photographic record-keeping provisions of s. 92-12-3-a-2.” (subpar. e-2)*
- Regulated property is also subject to additional reporting requirements, as specified in s. 92-3-8-g of the code. Notably, this section of the code notes that “*Junk collectors and junk dealers may choose to report transaction descriptions in computerized data batches so long as the batch data reporting conforms with the standards and procedures set by the chief of police, and transaction description record data not batch-reported in accordance with police procedures is maintained and reported as directed by the chief of police.*”

According to an email from MPD detective Ronald Laura to former Common Council president Willie L. Hines, Jr.’s staff assistant, Keith K. Stanley,<sup>14</sup> the Northeastern Wisconsin Property Reporting System (NEWPRS) – the web-based database the city uses to electronically manage and store purchases from salvage yards, among other businesses – works best “*when articles are manually entered. Manual entries allow the user to provide better descriptions because the system cannot be set up to match every user’s computer record management system. Two major scrap yards and some smaller ones are manually entering records and what they provide is far better than the [batch] uploaded records.*”

<sup>14</sup> Laura, Ronald. December 21, 2011. Email message to Keith K. Stanley.

- Section 92-3-2-e includes in the definition of “regulated property” aluminum siding, gutters, downspouts, screens, windows, window frames and doors, metal bathtubs and sinks, non-plastic pipe, copper, nonferrous metal items other than aluminum cans, stained glass, traffic signs, aluminum light poles, water meters, cemetery monument plaques, fixtures from houses of worship, catalytic converters, bicycles, bicycle frames or parts and manhole covers, including lids, grates and frames.
- Section 92-3-9-a specifies that “*any interested person may file*” an objection to the renewal of a license, written or otherwise, “*with the city clerk at least 60 days prior to the date on which the license expires.*”
- Section 92-3-9-b further notes that proceedings for the suspension or revocation of a junk collector or dealer license “*may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.*”

## B. Chapter 93.

Section 93-5-1 requires licensing of persons engaged in *"...the business of buying, selling, exchanging or dealing in used or secondhand motor vehicles and bicycles, and used or secondhand parts of motor vehicles and bicycles, and used or secondhand tires and batteries, or engaging in the business of an auto wrecker."* "Business" is further defined as *"engaging in activities for the purpose of earning a livelihood or a profit therefrom on a full or part time basis."*

The definition of "auto wrecker" in s. 93-1-1 includes any person who *"...buys any motor vehicle for the purpose of dismantling, disassembling, or who dismantles or disassembles any such motor vehicle for the purpose of dealing in the parts thereof."*

Auto wrecker recordkeeping, reporting and other requirements are regulated under s. 93-23 of the code. Section 93-23-1-a, specifically, notes that auto wreckers must keep a log recording *"a full, true, and complete description of the automobile or wrecked automobile purchased or received."* A log must also be kept for any purchase of motor vehicle parts or accessories, pursuant to s. 93-23-1-b and including:

- The name and address of the person from whom purchased or received.
- The make, motor number and serial number, if any.
- The manufacturer's name and number, if any.

These records *"shall at reasonable times be open to the inspection of the chief of police."* Section 93-23-2 of the code also requires that auto wreckers must *"make out and deliver to the police department"* complete copies of these records on a date designated by the chief of police.

Additional regulations on auto wreckers in s. 93-23 include:

- *Holding period:* Section 93-23-3 permits the chief of police to cause any suspected stolen or otherwise illegal article to be held for identification *"for such reasonable length of time as the chief shall deem necessary."*
- *Nuisance:* All materials relating to an auto wrecker business must be kept within a *"building or enclosure or site approved by the department of neighborhood services, fire department, police department and health department."*
- *Minors:* An auto wrecker may not purchase any motor vehicle from any person less than 18 years of age without the written consent of the parent or guardian of the minor.

### C. Other Relevant Provisions

1. *Section 79-40. Unauthorized Removal of Recyclables or Recycling Containers.*

This provision specifies that *“no person shall remove any material from a recycling cart, bin or other container that has been furnished by the city or by a private recyclable collector for the purpose of accumulating recyclable materials for collection by the city or the private collector.”*

2. *Chapter 81: License and Permit Fees.*

The fees for auto wrecker; junk collector; junk dealer; junker; secondhand dealer’s; secondhand dealer mall; secondhand motor vehicle dealer’s; and used bicycle, tire or battery dealer’s licenses are provided in Chapter 81 of the code. Since 1999, the fees for selected licenses, permits and forfeitures have increased at least 6 times. Table 3 in the appendix summarizes fee and other regulatory changes since approximately 1997.

3. *Section 85-21: Fingerprinting and Investigation Required.*

Chapter 85 of the code deals with license and permit procedures, including procedures for hearings, license or permit issuance and transfer, license renewal, and license nonrenewal, suspension or revocation. Section 85-21, specifically, requires that *“each applicant for a license or permit subject to review by a licensing committee of the common council shall be fingerprinted”* (s. 85-21-1-a) and *“referred to the chief of police who shall cause an investigation to be made (s. 85-21-2-a).”*

4. *Section 101-23.2: Vehicles Prohibited from Parking or Standing.*

This provision of the code prohibits licensed junk collectors and junk dealers from parking vehicles in which junk is collected and stored on *“the highways of the city,”* unless actively engaged in loading or unloading and if not left unattended for a period of greater than 10 minutes.

5. *Section 101-25: Towing Away of Vehicles.*

Section 101-25 authorizes police officers, the Commissioner of Public Works or any of the Commissioner’s designees to remove vehicles in violation of certain provisions of the traffic code to a secure impound lot. This work may be performed under contract according to s. 101-25.5 of the code. If vehicles towed under s. 101-25 or s. 101-25.5 of the code remain unclaimed, they may be disposed of according to the provisions of s. 105-65. Section 101-



23.5 of the code also notes that owners or lessees of private property may prohibit, restrict, limit or permit parking by certain persons.

6. *Section 105-65: Control of Abandoned Motor Vehicles and Trailers.*

Section 105-65 of the code allows for the removal, impoundment and disposal of abandoned vehicles by the Chief of Police, the Commissioner of Public Works or the Commissioner's designee. Section 105-65-2 of the code notes that, under certain circumstances, a police officer, the Commissioner of Public Works or the Commissioner's designee may deem a vehicle parked on private property abandoned. Notably, s. 105-65-3 stipulates that removal of abandoned vehicles on public or private property, as defined in s. 105-65-1 of the code, *"may only be performed by or under the direction of a traffic officer or towing contractor under contract to the city."*

7. *Section 200-33-17.5: Fire Prevention Permits.*

Under s. 200-33-17.5-zzf, *"waste material and junk yards,"* are charged a \$50 annual fee upon the approval of a permit during an inspection process. Fire prevention permit fees are charged against real estate and assessed and collected as a special charge.

8. *Section 295-201-243: Ground Transportation Services.*

Establishments providing the storage, maintenance or dispatching of various ground transportation services, including tow trucks as defined in s. 340.01(67n), Wis. Stats., are regulated under the City's zoning code. "Tow truck" is similarly defined in s. 295-201-664 of the code to mean *"a motor vehicle that is equipped with mechanical or hydraulic lifting devices or winches capable of, and used for, the recovery and transport or both of wrecked, disabled, abandoned, used or replacement vehicles."*

Ground transportation services are prohibited in all residential zoning districts. See Table 4 in the appendix. The only other provisions of the code dealing with the towing of vehicles are found in Chapters 101 and 105, and these deal with the towing of vehicles by the City.

9. *Section 295-201-369: Material Reclamation Facilities.*

Establishments engaged in processing and wholesaling scrap from automobiles, including auto wreckers, are regulated under the City's zoning code. Material reclamation facilities are prohibited in all residential commercial and downtown zoning districts. They are also prohibited in all but "IH" industrial zoning districts, where they are a limited use. See Table 4

in the appendix.

*10. Section 295-201-487: Recycling Collection Facilities.*

Establishments engaged in the deposit, sorting or batching, but not processing, of post-consumer recyclable materials are regulated under the City's zoning code. Recycling collection facilities are prohibited in all but "RO1" and "RO2" residential zoning districts (where they are a special use), a special use in all commercial districts, prohibited in all but "C9B," "C9C," "C9G" and "C9H" downtown zoning districts (where they are a special use) and permitted in all but "IO1/IO2" and "IM" industrial zoning districts (where they are a special use). See Table 4 in the appendix.

*11. Section 295-201-515 and 517: Indoor and Outdoor Salvage Operations.*

Establishments "*providing the storage of any equipment, goods, junk, material, merchandise or inoperable motor vehicles*" in the open or within a building for more than 48 hours are regulated under the City's zoning code. According to these provisions, such establishments typically perform "*the dismantling of items for the salvage of useable parts.*"

Indoor salvage operations are prohibited in all residential and downtown zoning districts, prohibited in all but "CS" commercial zoning districts (where they are a special use) and a limited use in all industrial zoning districts.

Outdoor salvage operations are prohibited in all residential, commercial and downtown zoning districts. They are a special use in all but "IO1/IO2" industrial zoning districts, where they are prohibited. See Table 4 in the appendix. Table 295-405-1-a of the code also provides the minimum landscaping or edge treatment required for outdoor salvage operations.

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#### D. Notable Recent Changes in Regulation

##### 1. *November 29, 1999: Written Declaration from Sellers.*

Common Council File Number 991039 repealed and recreated s. 92-3-7-a of the code to require junk dealers and collectors to include certain information on purchase forms, including “a written declaration from the seller stating whether the items being sold are personal property and, if not, whether they were acquired under a junk collector’s license or if the seller is a licensed plumber, electrician or home improvement contractor.” The ordinance notes that the procedures for recording purchases made by junk dealers and collectors are “intended to prevent the sale of stolen, scavenged or otherwise illicitly-obtained items to junk dealers and collectors.

##### 2. *May 13, 2003: Due Process Hearing Procedures.*

On this date, the Common Council passed File Number 011725, an ordinance establishing “*due process hearing procedures, similar to those used for alcohol beverage licenses, for the granting of new licenses, and license nonrenewal, suspension and revocation of licenses*” for secondhand motor vehicle dealers, used bike, tires and battery dealers, and auto wreckers.

##### 3. *November 5, 2003: Sale on Public Property.*

Section 101-29 of the code was created by File Number 030701 to require that “*each vehicle...for sale on public property display a certificate issued by the department of public works.*” This ordinance also created s. 92-26 of the code, noting that “*no secondhand motor vehicle dealer licensed under this chapter may apply for a certificate issued pursuant to s. 101-29 to leave a vehicle that is for sale on public property.*”

##### 4. *February 28, 2006: Grounds for Nonrenewal, Suspension and Revocation.*

Common Council File Number 051418 established grounds for nonrenewal, suspension and revocation of junk dealer or junk collector licenses. These grounds include “*a showing that the premises where the principal place of business or added storage yard is located has been the source of...[the] sale or purchase of stolen goods.*” This ordinance also establishes who may institute suspension or revocation proceedings, including “*the licensing committee upon its own motion or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any resident.*”

5. *May 8, 2007: Identifying Signs and Definition of Junk.*

On this date, the Common Council passed File Number 061035, an ordinance providing that *“a motor vehicle used for business purposes subject to licensing as a junk dealer or junk collector shall have identifying signs placed on both sides of the vehicle”* specifying the name of the business, a valid phone number and the business’s junk license number.

In addition, s. 92-3-2-a of the code was amended on this date by File Number 070144 to clarify the definition of “junk” to distinguish it from unrecyclable trash, *“and to distinguish junk from articles sold or resold as secondhand personal property.”* This ordinance also defined “business” for the purpose of junk collecting and dealing as *“engagement in activities over time for the purpose of sustained financial gain.”* This definition excludes environmental clean-up activities organized by individuals or sponsored by nonprofit organizations and individuals engaged *“exclusively in the collection of aluminum cans.”*

6. *July 7, 2010: Transaction Reporting for Secondhand Dealers.*

The definition of junk was further amended by Common Council File Number 070789 to include *“used or secondhand motor vehicles or the parts thereof.”* This ordinance also established a fingerprinting requirement for junk collector and junk dealer license applicants and prohibited *“the purchase of junk from unlicensed junk collectors and junk dealers.”*

Also on this date, File Number 100208 was passed, requiring secondhand dealers to *“report transactions on a police-approved Internet website,”* including item descriptions and pictures, and pictures and identification of borrowers or sellers, at the close of each business day. This ordinance also requires junk collectors and dealers to post or upload transactions description records for regulated property, including *“aluminum (except cans) and copper items, stained glass, water meters, cemetery plaques, house of worship fixtures, catalytic converters, bicycles and manhole covers.”* Finally, File Number 100208 established holding periods for regulated property purchased by junk collectors and dealers.

7. *May 3, 2011: Transaction Reporting for Junk Collectors and Dealers.*

Common Council File Number 100365 was passed on this date, requiring junk collectors and junk dealers to post or upload transaction records of regulated property purchases to *“a police-approved Internet website at the close of each business day.”* These transaction record descriptions are to include pictures of the property, copies of seller identification and

pictures of sellers, according to the ordinance.

8. *February 28, 2012: Junk Collector Licensing.*

Section 92-3 was amended by Common Council File Number 111273 to require that separate junk collector's licenses be required for each motor vehicle used in the conduct of a junk collector's business. The ordinance also requires that junk collector's license applications include "the year, make, model, vehicle weight and license plate number of the motor vehicle to be used in the conduct of the junk collector's business."

9. *April 11, 2012: Fingerprinting and Background Investigation.*

On this date, the Common Council passed File Number 110991, requiring that "individual applicants; each partner, if a partnership; and the agent as well as any persons holding 20% or more ownership, if a corporation or limited liability company," are required to be fingerprinted for license and permit applications. This ordinance also standardized background investigation requirements for license and permit applicants.

Also on this date, File Number 111624 was passed, requiring permittees or licensees to notify the city clerk of any changes made in the name of a licensed or permitted business within 10 days of the change.

10. *July 24, 2012: Regulation on Owned Articles of Property.*

Section 92-11.5 of the code was created on this date to provide that "*no person shall pawn, pledge, sell, consign, leave or deposit any article of property with or to a licensed pawnbroker, secondhand dealer, junk collector, junk dealer or precious metal and gem dealer,*" if the article of property is not owned by the person or is the property of another person, or another person has a security interest in the article of property.

11. *March 21, 2013: Photographs or Video of Secondhand Items.*

On this date, Common Council File Number 121478 was passed, requiring secondhand dealers to maintain and report photographs or video recordings "*to items placed on sale for \$10 or more, including tools, electronic devices and musical instruments with or without unique serial or identification numbers permanently engraved or affixed.*" Previously, the code has only required secondhand dealers to maintain and report a record of items consigned, exchanged or sold without unique serial or identification numbers permanently

engraved or affixed.

*12. May 13, 2014: Holding, Record-Keeping and Reporting Exemptions.*

Prior to the passage of File Number 131641, only secondhand clothing and clothing accessories were exempt from the holding, record-keeping and reporting requirements for licensed secondhand dealers. Subsequent to the passage of this ordinance, additional exceptions include video, cassettes, compact discs, vinyl records and large appliances and furniture. The ordinance defined large appliances and furniture to mean “*beds, tables, chairs, bureaus, dressers, desks, bookcases, refrigerators, freezers and all other household furnishing and appliances occupying a space greater than 8 cubic feet.*”

*13. June 24, 2014: Photographs of Required Signage.*

On this date, the Common Council passed File Number 131726, requiring junk collectors and junk dealers to submit photographs of each vehicle used in the operation of their business, clearly displaying all required signage. The ordinance also requires that changes to information contained in a junk collector or dealer’s application or plan of operation be reported to the city clerk within 10 days.

#### IV. WISCONSIN STATE REGULATION

Wisconsin statutory regulations dealing with metal theft cover a variety of topics, from licensing to theft to the regulation of certain materials and businesses. In addition, state administrative regulations and rules (Wis. Admin. Code) include recordkeeping, taxation, transport and other requirements. These are briefly described below.

##### A. Statutory Regulation.

###### 1. *Section 134.405: Purchase and Sale of Certain Scrap Material.*

This section of state statute provides that “a scrap dealer may purchase nonferrous scrap, metal articles, or proprietary articles from any person who is over the age of 18,” provided that:

- The seller or deliverer of the scrap metal provides to the scrap dealer government-issued, current photo identification, including the seller’s or deliverer’s full name, current address, date of birth and recognized identification number.
- The scrap dealer records and maintains the seller’s or deliverer’s identification information, the date and time of the purchase, the number and state of issuance of the license plate on the seller’s or deliverer’s vehicle and a description of the items received.
- With respect to a purchase of nonferrous scrap or a metal article, the scrap dealer obtains the seller’s signed declaration that the seller is the owner of the items being sold.
- With respect to a purchase of a proprietary article, the scrap dealer either receives documentation from the seller establishing that the article is lawfully possessed or documents that he or she has made “a diligent inquiry into whether the person selling the proprietary article has a legal right to do so.” If not purchased with documentation establishing lawful possession, the dealer must report within one business day to a local law enforcement department the seller’s or deliverer’s name, date of birth, identification number, address and vehicle license number, including state of issuance.
- The scrap dealer submits a report to the local law enforcement department describing the article and including the seller’s or deliverer’s identification information within one business day of the purchase of a proprietary article.

A dealer purchasing ferrous scrap (scrap other than nonferrous scrap, metal articles or proprietary articles) is exempt from all but the provision dealing with purchases from minors.

Additionally, according to s. 134.405(3)(b), Wis. Stats., “*this subsection does not apply to purchases of nonferrous scrap, metal articles, or proprietary articles by a scrap dealer from a commercial account, if the scrap dealer creates and maintains a record of its purchases from the commercial account.*” All of the above records must be kept for at least 2 years and made available to law enforcement officers.

Penalties for the violation of s. 134.405, Wis. Stats., are provided in subsection 5. Scrap dealers face fines of up to \$1,000 or imprisonment of up to 90 days for knowingly committing their first violation of this section. Scrap dealers knowingly committing a second violation are subject to fines of up to \$10,000 or imprisonment of up to 9 months, and any subsequent violation knowingly committed may result in a Class I felony. Notably, s. 134.405(5)(b), Wis. Stats., specifies that “*each day on which a scrap dealer knowingly violates this section constitutes a separate violation.*”

Also of note, s. 134.405(6), Wis. Stats., provides that Milwaukee may “*enact an ordinance that is more stringent than this section*” and may enact an ordinance requiring scrap dealers to submit reports to a law enforcement officer in electronic format.

Finally, the following terms are defined in this section of state statutes (edited for clarity and conciseness):

- *Commercial Account*: Any corporation, partnership, limited liability company, business operated by an individual, association, state agency, political subdivision or other government or business entity with which a scrap dealer maintains an ongoing and documented business relationship.
- *Ferrous Scrap*: Scrap metal consisting primarily of iron or steel, including large manufactured articles containing other substances removed during normal scrap metal dealer operations.
- *Metal Article*: Manufactured items usable for their original intended purpose which consist of metal and which are offered for sale for the value of that metal.
- *Nonferrous Scrap*: Scrap metal consisting primarily of metal other than iron or steel, excluding aluminum beverage cans, used household items, items removed from a structure during renovation or demolition and small quantities of nonferrous metal contained in large manufactured items.



- *Proprietary Article*: Any of the following:
  - A metal article marked to identify it as the property of a governmental entity, telecommunications provider, public utility or cable operator.
  - A copper or aluminum conductor, bus bar, cable or wire.
  - A metal beer keg.
  - A manhole cover.
  - A metal grave marker, sculpture, plaque or vase obtained from a cemetery.
  - A rail, switch component, spike, angle bar, tie plate or bolt used to construct railroad track.
- *Scrap Metal*: A metal article; metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, or manufactured item; or other metal no longer used for its original intended purpose able to be processed for reuse in a mill, foundry or other facility.

## 2. Section 218, Subchapter VII: Motor Vehicle Salvage Dealers

This subchapter of the statutes requires that all motor vehicle salvage dealers obtain a license from the Department of Transportation. According to 218.20(1r), Wis. Stats., a motor vehicle salvage dealer is defined as a person who “*purchases and resells motor vehicles for wrecking, processing, scrapping, recycling or dismantling purposes or who carries on or conducts the business of wrecking, processing, scrapping or dismantling motor vehicles or selling parts of motor vehicles so processed.*”

Section 218.23, Wis. Stats., further requires that motor vehicle salvage dealers must mail or deliver certificates of title or bills of sale for all vehicles acquired for the purpose of wrecking. This section also specifies that “*every licensed motor vehicle salvage dealer shall maintain a record of every vehicle which is bought or otherwise acquired and wrecked,*” including the name and address of the person from whom the vehicle was acquired and the date of acquisition.

Finally, s. 218.24, Wis. Stats., requires that salvage dealer license numbers be displayed on each truck or truck-tractor “*operated for hauling, towing or pushing salvage vehicles.*” The penalty for any person operating as a motor vehicle salvage dealer without a license is “*not less than \$500 nor more than \$5,000 for the first offense and...not less than \$500 nor more than \$5,000 or [imprisonment] for not more than 60 days or both for a second or subsequent*

*conviction within 5 years” (s. 218.205, Wis. Stats.).*

### 3. Chapter 340: Vehicles – General Provisions

According to s. 340.01(25g) of state statutes, “*junked*” means *dismantled for parts or scrapped*” and according to s. 340.01(25j), “junk vehicle” is defined as any of the following:

- A vehicle which is incapable of operation or use upon a highway and which has no resale value except as a source of parts or scrap.
- A vehicle for which an insurance company has taken possession of or title to if the estimated cost of repairing the vehicle exceeds its fair market value.

Further, according to s. 340.01(55g), Wis. Stats., a “salvage vehicle” is a vehicle “*less than 7 years old that is not precluded from subsequent registration and titling and that is damaged by collision or other occurrence to the extent that the estimated or actual cost, whichever is greater, of repairing the vehicle exceeds 70% of its fair market value.*”

### 4. Chapter 342: Vehicle Title and Anti-Theft Law.

According to s. 342.065(1) of the statutes, the owner or purchaser of a salvage vehicle that is not currently titled as a salvage vehicle must apply for a salvage vehicle certificate of title with the DOT. This provision also requires the owner of a vehicle, upon payment of an insurance claim exceeding 70% of the fair market value of a vehicle, to apply for a salvage vehicle certificate of title. The penalty for violating s. 342.065(1), Wis. Stats., is \$1,000.

Regarding the removal and disposal of abandoned vehicles, s. 342.40(1m), Wis. Stats., notes:

Whenever any vehicle has been left unattended [on any public highway or private or public property] without the permission of the property owner for more than 48 hours in cities of the 1<sup>st</sup> class...the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly authorized municipal or county official pursuant to municipal or county ordinance.

Section 342.40(3) of state statutes further notes that any municipality may enact ordinances governing the removal and disposal of abandoned vehicles and establishes requirements for towing service agreements and the impoundment, notice, reclamation and disposal of

abandoned vehicles by municipalities. The removal of abandonment vehicles from private property is regulated in more detail in s. 349.13 of the statutes, as described below.

Finally, s. 342.30(1g) of state statutes establishes that “*no person may remove, alter or obliterate or intentionally make it impossible to read*” a vehicle identification number (as defined in Trans 155.02, Wis. Admin. Code). The obliteration of an identification number during the process of crushing a vehicle or vehicle part for scrap is a notable exception to this rule. Anyone in violation of this rule is guilty of a Class H felony.

5. *Section 346.55: Other Restrictions on Parking and Stopping.*

In addition to the regulations described above, s. 346.55(3), Wis. Stats., provides that “*no person may leave or park any motor vehicle on private property without the consent of the owner or lessee of the property.*” Section 346.55(4), Wis. Stats., adds that owners or lessees of public or private property may post a sign on the property permitting, limiting, restricting or prohibiting parking, and that no person may park any motor vehicle contrary to that sign.

6. *Section 349.13: Authority to Regulate the Stopping, Standing or Parking of Vehicles.*

According to s. 349.13(3m)(c), Wis. Stats., if a vehicle is parked on properly posted private property and is not authorized to be parked there, “*the vehicle may be removed immediately, at the vehicle owner’s expense, without the permission of the vehicle owner, regardless of whether a citation is issued for illegal parking.*” In cases where a vehicle is not authorized to be parked on private property, but that property is not properly posted, the vehicle may be removed immediately without the permission of the owner if there has been issued a repossession judgment or a citation for illegal parking.

Notably, section 346.13(3m), Wis. Stats., previously read that “*no vehicle involved in trespass parking on a private parking lot or facility shall be removed without the permission of the vehicle owner, except upon the issuance of a repossession judgment or upon formal complaint and a citation for illegal parking issued by a traffic or police officer.*” 2013 Wisconsin Act 76 (Act 76) changed this provision to only require citations for illegally parked cars on private property not properly posted.

Section 346.13(3m)(d), Wis. Stats., further establishes that only the property owner, the property owner’s agent, a traffic officer or a parking enforcer may request a vehicle be removed from private property, under the rules described above. This provision further

provides that the towing services performing the removal must “*notify a local law enforcement agency of the make, model, vehicle identification number, and registration place number of the vehicle and the location to which the vehicle will be removed.*” This notification requirement was also added under Act 76.

Finally, if the vehicle owner does not pay the charges for removal and storage of his or her vehicle within 30 days of the vehicle’s removal, the vehicle is deemed abandoned and may be disposed of “*as are other abandoned vehicles.*” As a notable exception to the above regulations, towing services may not remove vehicles reported stolen. Act 76 established these requirements.

7. *Section 779.415: Liens on Vehicles for Towing and Storage.*

According to s. 779.415(1g)(a) of state statutes,

Every motor carrier holding a permit to perform vehicle towing service, every licensed motor vehicle salvage dealer, and every licensed motor vehicle dealer who performs vehicle towing services or stores a vehicle, when such towing or storage is performed at the direction of a traffic officer or the owner of the vehicle, shall...have a lien on the vehicle for reasonable towing and storage charges, and may retain possession of the vehicle until such charges are paid.

Section 779.415, Wis. Stats., further provides that within 30 days of taking possession of a vehicle, the entities described above must send written notice to the vehicle owner notifying them that they must pay all towing and storage charges to repossess the vehicle. This section of state statutes further provides that at least 20 days prior to the sale or junking of a towed vehicle, the owner of the vehicle must be again notified by certified mail of the requirement to pay charges before repossessing the vehicle.

8. *Section 895.09: Scrap Metal or Plastic Bulk Merchandise Container Theft; Civil Liability*

Under this section of state statute, “*any owner of nonferrous scrap, a metal article, or a proprietary article...who incurs injury or loss as a result of s. 134.405 or s. 943.20 [theft] may bring a civil action against the person who committed the violation.*” According to this provision, the person incurring the loss has the burden of proving that a violation occurred, but if prevailing, shall be granted by the court actual damages, lost profits attributable to the violation, certain attorney fees and, potentially, punitive damages.

Chapter 943, Wis. Stats., provides criminal penalties for misappropriation of property by theft or otherwise. Regarding the value of the item stolen, s. 943.20(2)(d), in particular, notes that:

‘Value’ means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less...If the property stolen is scrap metal...‘value’ also includes any costs that would be incurred in repairing or replacing any property damaged in the theft or removal of the metal or plastic bulk merchandise container. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

B. Administrative Code.

1. *Trans 136.01: Licensing of Motor Vehicle Salvage Dealers*

This section of Wisconsin administrative code provides further details for the license application and transfer requirements of vehicle salvage dealers. Specifically, Trans 136.01(3) establishes that *“salvage dealers who have no established salvage yard shall transport salvage vehicles directly to salvage yards or scrap metal processors and are prohibited from removing and selling reusable parts, except for tires, batteries and gas tanks which are normally removed prior to delivery to processors.”*

2. *Trans 136.03: Record Keeping*

In addition to the above regulations, this provision of administrative code requires certain information to be kept on motor vehicles acquired for salvage purposes, including: the data of acquisition; the name and address of the person from whom the vehicle was acquired; the year, make and vehicle identification number of the vehicle; and the date the title or bill of sale is forwarded to the DOT. These records must be retained for 5 years and open to inspection by any authorized representative of the DOT.

C. Notable Recent Changes in Regulation.

1. *2003 Wisconsin Act 142.*

According to a 2004 Wisconsin Legislative Reference Bureau (WLRB) research bulletin,<sup>15</sup> “Act 142 (AB-758) generally requires a law enforcement officer who causes the removal of an unregistered, abandoned, or illegally parked vehicle by a towing service to, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle.”

2. *2007 Wisconsin Act 64.*

Wisconsin strengthened its requirements regarding sale and purchase of recyclable materials in 2007 with Act 64. According to a WLRB,<sup>16</sup> the bill (SB-473) “requires a scrap metal dealer purchasing nonferrous scrap metal to record and make available to law enforcement agencies information identifying the seller and the items sold. Before purchasing certain proprietary articles, a scrap metal dealer must establish the seller’s ownership of the proprietary article.” The bill also established that scrap metal dealers could bring civil action to recover damages caused by theft.

3. *2009 Wisconsin Act 201.*

The WLRB notes<sup>17</sup> that “Act 201 (SB-506) makes various changes relating to motor vehicle towing and storage liens, including expanding the availability of these liens to the towing and storing of any vehicle, not just a motor vehicle; clarifying the towing service provider’s lien rights and obligations and a vehicle owner’s or secured party’s obligations; and modifying the priority given towing and storage liens over other security interests.”

4. *2013 Wisconsin Act 76.*

According to the WLRB’s summary of the 2013-2014 legislative session,<sup>18</sup> “Act 76 (SB-179) allows for the immediate towing of a vehicle parked without authorization on private

<sup>15</sup> Wisconsin Legislative Reference Bureau. September 2004. *Summary of the 2003-2004 Wisconsin Legislative Session*. Research Bulletin 2004-2.

<sup>16</sup> Wisconsin Legislative Reference Bureau. June 2008. *Summary of the 2007-2008 Wisconsin Legislative Session*. Research Bulletin 2008-1.

<sup>17</sup> Wisconsin Legislative Reference Bureau. July 2010. *Summary of the 2009-2010 Wisconsin Legislative Session*. Research Bulletin 2010-1.

<sup>18</sup> Wisconsin Legislative Reference Bureau. May 2014. *Summary of the 2013-2014 Wisconsin Legislative Session*. Research Bulletin 2014-1.

*property, at the vehicle owner's expense and without the issuance of an illegal parking citation, if the private property is posted with a notice. Certain requirements apply with respect to the towing, and the towing service may impound the towed vehicle until applicable charges are paid."*

Act 76 also requires the DOT to "*promulgate rules establishing...reasonable charges for removal and storage of vehicles*" and "*the form and manner of display of notice necessary to quality as 'properly posted.'*" Act 76 almost entirely went into effect on March 1, 2014, but the effective date for the provisions dealing with towing and parking was postponed to July 1, 2014. As of August 7, 2014, it appears that the DOT has yet to establish rules for reasonable removal and storage fee and the definition of "properly posted."

5. *RR-988: Model Ordinance for Removal of Non-Structural Materials from Vacant Buildings.*

According to a June 9 update from the Wisconsin DNR,<sup>19</sup> this model ordinance was drafted to address "*salvaging of non-structural materials from abandoned/vacant buildings. The purpose of this ordinance is to ensure that the municipality has approved the salvage activities and that the contractors' operations are safe, environmentally responsible, and not a detriment to the community.*"

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<sup>19</sup> DNR Remediation and Redevelopment Program. June 9, 2014. *RR Report*



#### D. Other Relevant Provisions

1. *Section 59.55: Consumer Protection.*

Through this provision, the state establishes that a county may create or designate a consumer protection agency and that it may “*license and regulate dealers in secondhand motor vehicles, wreckers of motor vehicles, or the conduct of motor vehicle junking. Such regulation shall not apply to any municipality which enacts an ordinance governing the same subject.*”

2. *Section 84.31: Regulation of Junkyards.*

According to s. 84.31, Wis. Stats., “*no person may own, establish, expand or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway,*” unless not visible from the highway, screened so as not to be visible, or located in a zoned or unzoned industrial area.

3. *Section 134.71 Pawnbroker and Secondhand Article and Jewelry Dealers.*

State statute defines “secondhand dealer” as “*any person, other than an auctioneer, who primarily engages in the business of purchasing or selling secondhand articles.*” This definition excludes any transaction entered into by a licensed junk collector, junk dealer or scrap processor. Among those items defined in this section as “articles” are bicycles, electronic equipment and small electrical appliances.

This provision requires that secondhand dealers be licensed and keep written inventories of items and transaction. It also mandates a 21-day holding period for purchased items and that secondhand article dealers permit law enforcement officers to inspect secondhand articles or jewelry during this period. Finally, this provision establishes that “*a license issued to a secondhand article dealer authorizes the licensee to operate as a secondhand article dealer anywhere in the state.*”

4. *Section 175.25: Storage of Junked Automobiles.*

This section of state statute establishes that “*no person, firm, partnership or corporation shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the corporate limits of any city, village or town except upon a permit issued by the common council or village or town board.*” This provision also provides limits for the accumulation or storage of junked automobiles with respect to a permittee’s distance from the corporate limits of the city and the center line of any town road, county

trunk, state trunk or federal highway.

5. *Section 285.59: Recovery of Ozone Depleting Refrigerants.*

This section includes rules for the salvaging and dismantling of mechanical vapor compression refrigeration equipment, specifically noting that any person who sells, gives or transports such equipment to a scrap metal processor must transfer any ozone-depleting refrigerants into a storage tank or obtain documentation that another person has performed that transfer.

6. *Chapter 287: Solid Waste Reduction, Recovery and Recycling.*

This chapter regulates solid waste reduction, recovery and recycling, including “materials recovery” facilities and reporting requirements.

7. *Section 348.27: Annual, Consecutive Month or Multiple Trip Permits.*

The transportation of scrap is regulated by s. 348.29(9r), Wis. Stats. This provision notes that “*the department [DOT] may issue an annual or consecutive month permit for the transportation of metallic or nonmetallic scrap for the purpose of recycling or processing on a vehicle or combination of vehicles which exceeds statutory weight or length limitations and for the return of the vehicle or combination of vehicles when empty.*”

8. *Trans 251: Vehicle Weight Authorized by Multiple Trip Permits.*

Section Trans 251.05 specifies the gross weight limits imposed on vehicles operating under a transportation scrap permit.

9. *Section 948.93: Receiving Property from a Child.*

This provision prohibits any dealer in secondhand articles or jewelry or junk from purchasing any personal property (excluding old rags and waste paper) from any child without the written consent of the child’s parent or guardian.

## V. ACTIONS IN OTHER U.S. STATES

### A. General Overview.

A recent report by the Council of State Governments (CSG) notes that:<sup>20</sup>

Insurance companies, law enforcement officials and industry watchdogs have called scrap metal theft – including copper, aluminum, nickel, stainless steel and scrap iron – one of the fastest-growing crimes in the United States. State leaders have taken notice, passing a flurry of legislation meant to curb metal theft and help law enforcement find and prosecute criminals.

The report also notes that all 50 states have passed legislation to curtail metal theft through the regulation of scrap metal recycling facilities, and it appears that states are continuing to promote innovative and comprehensive regulation of scrap metal. For instance, according to the CSG, during the 2013 and 2014 sessions, “*legislators introduced more than 220 bills aimed at stopping metal theft and passed 51 of them.*” Frequently-adopted laws include:

- *Records on Transactions:* These regulations typically involve the creation and maintenance of records on transactions, including reporting to an electronic database; minimum record holding periods; material description, photo and/or video evidence requirements; and seller or vehicle identification requirements.
- *Identification:* Including license or photo identification requirements, fingerprinting and establishing proof of ownership.
- *Payment Restrictions:* Including restrictions on the form of payment (i.e. cash), mandatory waiting periods for payment and the maximum number or size of transactions in a specified time period.
- *Holding Provisions:* Including requirements that scrap metal recyclers or dealers hold all or certain types of purchases for a certain period, either continually or at the request of law enforcement.
- *Criminal Penalties:* Including enhanced penalties for metal theft offenses.

In addition to legislation, a number of states have created task forces designed to study metal theft trends and possible legislative solutions.

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<sup>20</sup> Burnett, Kussainov and Hull. May 2014. *Scrap Metal Theft: If Legislation Working for States?* The Council of State Governments.

## B. The Need for State-Level Regulation.

According to the CSG, “*while some jurisdictions are tracking metal theft – usually on an ad hoc basis – their methodologies vary significantly. That variance makes aggregation to achieve state-level data, cross-jurisdictional comparison or tracking trends over time difficult and likely unreliable.*” These differences in tracking, recording and combating metal theft are also detrimental to those scrap metal businesses on the right side of the law. According to a May 2014 report by the Institute of Scrap Recycling Industries, Inc.:<sup>21</sup>

Unfortunately from a compliance standpoint, there is no uniformity between state laws. In addition, many of the states are frequently “updating” their laws – to date there have been over 50 bills passed in the 2013-2014 session. All of these changes make it increasingly challenging for recyclers to stay on top of current requirements.

The need for state-level intervention, then, becomes even more evident and necessary, especially in regard to the tracking and reporting of metal theft. The CSG appears to concur, noting in its 2014 report that:

After an evaluation of the existing research and interviews with state and local officials and law enforcement personnel across all 50 states, CSG researchers concluded that metal theft data for states are not available for analysis. Because metal theft is such a significant and widespread problem, and because accurately tracking metal theft is key to establishing evidence-based practices designed to both deter theft and to assist in the investigation and prosecution of theft, it is imperative that states evaluate ways to begin collecting these data. Moving forward, it is unlikely data will be available on a scale necessary to perform meaningful analysis unless a widespread effort is launched to create systems to document, track and report metal theft crime uniformly and consistently.

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<sup>21</sup> Institute of Scrap Recycling Industries, Inc. May 2014. *State Metal Theft Statutes: Compiled as of May 20, 2014.*

### C. Notable Recent Changes.

In their most recent (2013) completed legislative sessions, a number of states introduced and passed legislation aimed at combating metal theft. The following summaries of these laws are taken from the National Conference of State Legislatures website.<sup>22</sup>

#### 1. *Record Keeping.*

- *Idaho H.B. 241:* Requires scrap metal dealers to make photographic or video records of a seller's face, head and shoulders; the seller's vehicle with the metal property clearly visible; the vehicle with the license plate clearly visible; and the metal property for the first three nonferrous or stainless steel transactions with the same seller within one year. After the fourth transaction from the same seller within one year, documentation is no longer required.
- *Missouri S.B. 157:* Clarifies the existing requirement for scrap metal dealers to document a seller's government-issued photo identification by stipulating that scrap metal dealers document a seller's vehicle license plate; gender; birth date; and a photograph of the seller if the information is different than that on the seller's government-issued identification.
- *Utah H.B. 108:* Allows for abbreviated documentation for repeat sellers who use the same vehicle for each transaction, after completing an initial detailed record. Only a photograph of the seller and the seller's signature are required for subsequent transactions.
- *Virginia H.B. 1481:* Requires scrap metal dealers to take a photographic or video image of "proprietary articles" purchased and store the image for at least 30 days, if the seller is not an authorized scrap seller. The legislation adds manhole covers, bronze or copper cemetery plaques and markers, aluminum bleacher seats or guardrails, and certain mining cables to an existing list of "proprietary articles."

#### 2. *Proof of Ownership.*

- *Delaware S.B. 63:* Adds a proof of ownership requirement for catalytic converters and "restricted items."

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<sup>22</sup> Pless, Jacquelyn. February 1, 2014 (edited April 21, 2014). *Metal Theft: 2013 Legislative Update*. National Conference of State Legislatures. <http://www.ncsl.org/research/energy/metal-theft-2013-legislative-update.aspx> Accessed July 30, 2014.

- *Indiana H.B. 1441*: Adds a restriction to the existing law that scrap metal dealers may only purchase air conditioner coils or condensers from sellers who provide a bill of sale or other written documentation that shows the item lawfully came into the seller's possession, or provide documentation that they are an authorized HVAC contractor or engaged in HVAC repair.
- *Minnesota H.F. 1214*: Makes additional changes to the state's law requiring all scrap metal dealers to include a statement in their records signed by the seller attesting that the scrap metal is not stolen and the seller has the right to sell the metal property.
- *Rhode Island S.B. 79*: Requires the seller's signed statement of ownership or authorization to sell for every regulated metals transaction. "Public property" can only be accepted if the seller provides evidence of a valid contract with a governmental entity.

### 3. *Payment Methods.*

- *Louisiana S.B. 131*: Adds the option for payment by loadable payment card and options to tender payment in person or by electronic transfer to existing payment restrictions for copper, among other provisions.
- *Maine H.P. 559*: Amends existing law by adding the options of payment by credit card or debit card along with payment by check for non-exempt transactions.
- *North Carolina S.B. 583*: Changes the definition of "cash card system" to require a photograph of the seller at the time of payment when providing payment in cash and to require an automated cash dispenser such as an ATM, among other provisions.
- *North Dakota S.B. 2151*: Prohibits scrap metal dealers from entering into cash transactions in excess of \$1,000, unless with an exempted seller.
- *Oklahoma H.B. 1740*: Prohibits scrap metal dealers from entering into cash transactions in excess of \$1,000 for specific, regulated items, unless with an exempted seller.

### 4. *Statewide Databases and Theft Alerts.*

- *Arizona H.B. 2262*: Requires all law enforcement in the state to register on a metal theft notification website which allows law enforcement to send theft alerts to scrap metal facilities and other law enforcement within a 100-mile radius of a theft, among other provisions. This active alert system will also allow scrap metal dealers to alert law

enforcement when dealers are offered suspicious materials.

- *Minnesota H.F. 1214*: Requires daily reporting to an automated property system beginning in 2015, among other provisions. The bill requires scrap metal processors to prominently display a written notice of reporting requirements and required local law enforcement to participate in the automated property system.
- *Nevada S.B. 235*: Establishes protocol for a statewide database, requiring scrap metal dealers and local law enforcement to use an electronic reporting system where scrap metal processors must submit records daily detailing each transaction; forthcoming regulations must address privacy and legal concerns. The bill requires scrap metal processors to prominently display a written notice of the information they must submit to local law enforcement.
- *New Hampshire S.B. 104*: Creates a commission to study the current system of reporting by scrap metal dealers to evaluate the need a statewide database. The commission will examine the current system, the frequency of metal theft and arrests in the state, existing tools for deterring theft and models in other states to provide recommendations to the legislature on the necessity of creating a statewide database.

##### 5. *Licensing.*

At least 28 states include some form of licensing, registration or permitting requirement.

- *Arkansas H.B. 1975*: Allows county sheriffs to distribute scrap metal dealer licenses and establishes fees.
- *Washington's H.B. 1552*. Specifies the required documentation for scrap metal businesses and allows to Department of Licensing to require additional information from applicants.
- *Maine H.B. 560*: Calls for a study to address the need for a state licensing process and other scrap metal regulatory components.
- *Tennessee S.B. 733*: Delays the expiration of a scrap metal licenses by 60 days, as opposed to immediately, upon the death of the registrant. The bill additionally states that registration will expire upon notification to the Department of Commerce and Insurance by a registered scrap metal facility that the registrant is no longer an employee or agent.

## 6. *Enforcement and Penalties.*

- *Arizona S.B. 1107:* Includes those who knowingly purchase or control stolen scrap metal into to the state's definition of theft, further increasing efforts to reduce illegal scrap metal transactions.
- *Arkansas H.B. 1975:* Establishes that a person convicted of scrap metal theft is forever prohibited from selling scrap metal; and a recycler who fails to comply with the licensing provisions may have its license suspended or revoked.
- *California S.B. 485:* Requires applicants to provide additional documentation when applying for or renewing a weighmaster's license, including a current business license and proof of both photographic and thumb printing equipment. The bill also altered yearly licensing fees. California currently does not have a state license for scrap metal dealers.
- *Missouri S.B. 157:* Addresses both liability and repeat offenses: sellers of stolen scrap metal are liable for damages related to obtaining the stolen metal. A first violation of scrap metal law is a Class B misdemeanor with a fine of up to \$500, a second offense is a Class A misdemeanor with a fine of up to \$1,000 and a third offense will result in a loss of any business licenses.
- *Nevada's S.B. 37:* Requires a person found guilty of metal theft to complete a specified amount of community service based on their offense, in addition to paying restitution and receiving criminal charges.



## VI. FEDERAL REGULATION

### A. General Overview.

The issue of metal theft has, for the most part, been largely left to local jurisdictions to address. However, the FBI has, in some instances, arrested individuals guilty of the interstate transport of stolen property. The FBI investigates and prosecutes large-scale scrap theft, and has also brought charges of cargo theft, copper theft, and vehicle theft against perpetrators. Other federal charges might involve conspiracy, possession of stolen property, altering vehicle VINs, and impeding interstate commerce. The FBI has also prosecuted damage to power substations due to copper theft, a violation of federal law.

In addition, in 2008 the FBI released an “intelligence assessment” on copper theft and its impact on critical infrastructure in the United States.<sup>23</sup> This assessment noted that copper thieves present a risk to public safety and national security “*by targeting electrical substations, cellular towers, telephone land lines, railroads, waterwells, construction sites, and vacant homes for lucrative profits.*”

Although the global demand for copper appears to be decreasing and the United States may be through the worst of the home foreclosure crisis, copper theft remains a lucrative endeavor for criminals and may require continued national attention and support. As the FBI assessment notes,

Industry officials have taken some countermeasures to address the copper theft problem. These include the installment of physical and technological security measures, increased collaboration among the various industry sectors, and the development of law enforcement partnerships. Many states are also taking countermeasures by enacting or enhancing legislation regulating the scrap industry—to include increased recordkeeping and penalties for copper theft and noncompliant scrap dealers. However, there are limited resources available to enforce these laws, and a very small percentage of perpetrators are arrested and convicted. Additionally, as copper thefts are typically addressed as misdemeanors, those individuals convicted pay relatively low fines and serve short prison terms.

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<sup>23</sup> FBI Criminal Intelligence Section. September 15, 2008. *Copper Thefts Threaten U.S. Critical Infrastructure*. FBI Intelligence Assessment (Unclassified).

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## B. Recent Proposed Legislation.

### 1. *The Copper Theft Prevention Act of 2008*

Introduced in both the House and Senate, this legislation would not have precluded states from enacting their own legislation, but would have provided a baseline for action. It would have required secondary copper recyclers to maintain purchase records for at least 2 years, banned recyclers from cash transactions over \$500 for purchasing copper and established fines up to \$10,000 for violators. Neither bill was reported out of committee.

### 2. *The Secondary Metal Theft Prevention Act of 2009.*

Also introduced in both chambers, this act would have required “*secondary metal recycling agents to keep records of their transactions in order to deter individuals and enterprises engaged in the theft and interstate sale of stolen secondary metal, and for other purposes.*” The act died in committee.

### 3. *The Metal Theft Prevention Act of 2013.*

This bill cleared a Senate panel in June 2013, but the Senate has yet to take further action. According to a summary by the Congressional Research Service, a nonpartisan division of the Library of Congress, the bill would:

- Prohibit knowingly stealing specified metal being used in or affecting interstate or foreign commerce, the theft of which is from, and which harms, critical infrastructure.
- Prohibit a recycling agent from purchasing specified metal unless the seller provides documentation of ownership.
- Require a recycling agent to maintain specified written or electronic records of each purchase for 2 years.
- Prohibit a recycling agent from paying cash for a purchase more than \$100 (more than 1 purchase in any 48-hour period is considered a single purchase).
- Require purchases over \$100 to be made payable by check.

The bill’s definition of “specified metal” includes metal that is a part of the infrastructure of or marked with the name, initials or logo of a city, county, state or federal government, utility or retail establishment. The bill would not preempt state and local metal theft laws.

## VII. ADDITIONAL REGIONAL AND NATIONAL ASSETS

### A. ISRI Theft Alert System.

According to the University of Indianapolis Community Research Center:<sup>24</sup>

The unique nature of the market for stolen metal does provide an excellent opportunity for better cooperation between law enforcement and scrap yard operators to work together to reduce purchases of stolen metals and maintain the integrity of the market. Scrap yard operators could be law enforcement's most important ally in the fight against metal theft. For example, the Institute of Scrap Recycling Industries, Inc. (ISRI), a member of the National Crime Prevention Council, maintains a Theft Alert System that allows law enforcement to notify scrap yards when metal theft is reported. This tool is available free of charge to any law enforcement agency and helps recyclers identify stolen material brought to their location. Police provide the estimated date and time of theft, location of theft, and a detailed description of the materials, including serial numbers and measurements if possible, the investigating jurisdiction, a contact phone number, and the name of the investigating officer, when possible. The Theft Alert System then sends this information via email to local scrap yards, allowing operators to identify stolen material.

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<sup>24</sup> Whiteacre, Kevin W. November 5, 2009. *Scrap Yards and Metal Theft Insurance Claims in 51 U.S. Cities*. University of Indianapolis Community Research Center, Research Brief #2.

B. Northeast Wisconsin Property Reporting System.

According to its user manual, the Northeast Wisconsin Property Reporting System (NEWPRS) *“is a secure web-based database using today’s latest technology to electronically manage and store purchases from pawnshops, resale shops, and salvage yards.”* Salvage yards, law enforcement personnel and agency administrators can all use the NEWPRS system, with varying degrees of access. As the NEWPRS user manual notes:

Resale shops [and salvage yards] only have access and searching function[s] for their business. Law enforcement has the ability to search the entire system. They can also set up future searches so that if they are looking for an item/person and that item/person sells and item to a supporting NEWPRS business, the officer will be notified by email. [An] agency administrator has the same ability as law enforcement along with access to usernames and passwords for businesses and officers within their jurisdiction.

As noted previously, NEWPRS works best when property is entered directly into the system, as opposed to “batch” entries, which may not describe targeted materials (the metals being stolen) in sufficient detail or as they were received at a scrap yard.

## VIII. DEVELOPING A RESPONSE STRATEGY

### A. Stakeholders.

In addition to the involvement of individuals from the criminal justice system, those involved in abating scrap metal theft may wish to consider the following groups for the contributions they may make in gathering information and formulating responses:

- *Scrap Metal Dealers:* In addition to the implications of regulation on scrap metal dealer profits, these stakeholders likely possess a thorough understanding of the scrap metal market, both legal and illegal. Their cooperation may be critical to developing an appropriate and effective response strategy.
- *Trade Associations:* The ISRI and its local chapters offer numerous resources for those with an interest in protecting the scrap-dealing business. Although likely to favor measures protecting scrap metal dealing, ISRI and other trade associations play a pivotal role in the reduction of metal theft. According to an ISRI position statement on recyclable materials theft, for instance, each member of the recycling industry should “*communicate with and inform community leaders, law enforcement officials and their agencies, and members of the community most often affected by these thefts about the scrap recycling industry, its operations, and its requirements*” and to work cooperatively with these stakeholders to develop metal theft-reduction programs.
- *Utility Companies:* As one of the most frequented targets of metal theft, utility companies may be important advocates for addressing metal theft problems.
- *Abandoned or Vacant Property Owners:* Anyone with an interest in protecting their property from devaluation may be able to provide valuable input into how metal thefts can be reduced. Neighborhoods with large numbers of metal theft cases may be especially interested in solving the problem.
- *Metal Product Manufacturers:* From beer manufacturers to wire producers, these stakeholders may have an interest in ensuring legitimate customers keep their purchased product and may be able to prevent metal theft by coding products.
- *Insurance Companies:* Information on areas with a high number insurance claims may be valuable to developing a strategy to combat metal theft, and insurance companies may have a financial incentive to help determine solutions to the problem.

**B. Measuring Effectiveness.**

Before implementing response to the issue of metal theft, it may be prudent to set or determine measures for response effectiveness. According to the 2010 COPS report, potential measures may include:

- Number of metal thefts (reported and unreported).
- Financial loss from metal theft.
- Cost to replace stolen metal or damaged property.
- Number and/or severity of injuries resulting from metal theft.
- Number of repeat victims.

### C. General Considerations for an Effective Response Strategy.

According to a December 2006 problem statement by the Department of Homeland Security,<sup>25</sup> “several vulnerabilities in our infrastructure and law enforcement response capability have been exploited by metal thieves.” For instance:

- *Linear infrastructure is difficult to protect:* Much of the U.S. electrical transmission lines, rail road tracks, oil and gas pipelines, highways, etc., lack consistent security measures that might otherwise deter thieves.
- *Security measures are inadequate:* Cameras, fencing, lighting, roving patrols, etc., are cost prohibitive given the extensive area that would be required to cover.
- *Laws and regulations can be exploited:* For example, unless thieves are caught red-handed, they frequently claim they “found” the metal. Making the possession of stolen metal illegal – such as highway lights, guardrails and other obviously stolen materials – is a no-brainer.
- *Salvage dealer identification requirements are not consistent:* By forcing individuals to present identification, law enforcement would have a better opportunity to pursue criminal investigations, provided salvage dealers abide by these regulations.
- *Theft is often not reported:* The scrap metal industry is often reluctant to report break-ins and loss of materials for fear of being identified as a security vulnerability (both externally and internally). Even when reported, the inability of some jurisdictions to track and respond to trends may limit their investigative response.

The 2010 COPS report offers another succinct analysis of metal theft mitigation:

Both local and international supply and demand strongly influence scrap metal theft, and you can broadly tie local scrap metal theft problems to international demand and higher prices resulting from limited supplies. Despite this broad connection between international demand and U.S. scrap metal supply, you can initiate effective local scrap theft response strategies through a market reduction approach.

Making it difficult for offenders and scrap metal dealers to successfully do business interrupts the process of crime cooperation without relying on constant arrests. Ultimately, these responses should attempt to mitigate the problem of scrap metal theft through

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<sup>25</sup> Holm, Rudy. December 3, 2006. *Metal Theft Problem*. Department of Homeland Security

collaborative efforts between the police, scrap metal dealers, utility companies, builders, contractors, legislatures, and state regulators.

You should not focus solely on apprehending offenders, but rather should extend your responses to those that reduce scrap metal theft opportunities. Because most metal remains unsecure, public awareness and reporting of scrap metal theft is vital to improve guardianship and implement an effective response. Focusing solely on metal theft loss will not lead to long-term success.



## IX. CONCLUSION

### A. Potential for Improvement

How can the City of Milwaukee improve its current regulation to hinder illegal metal dealing and promote a safer, more equitable industry? In recent years, formal and informal proposals to improve regulation have included the itemization of large truckloads of junk, placing limits on cash transactions, establishing tax-reporting requirements and increased security measures at vacant properties. Community engagement has also been suggested as a deterrent to metal theft, as has the idea to more clearly define licensing requirements.

For instance, in regard to the licensing of junk collection, the LRB noted in a January, 2007, memo that one solution might be for *“any person engaged in collection activities on six or more days in any calendar month”* to have a license. *“Another method,”* the memo continues, *“could involve gross income such as more than \$500 in gross sales of junk in a calendar month.”*

However, *“enforcement would be problematic. The Police Department periodically collects the forms required for dealer purchases. At present, however, there is no easy way to cross-tabulate the information and, of course, information is not available for transactions occurring outside the city. Another alternative for defining a collector who is subject to licensing would be based upon an aggregate volume of junk collected in any vehicle at any one time...This would provide clear and immediate parameters for enforcement.”*

Another consideration may be the strengthening or coordination of existing regulation. Overlapping licensing and regulation requirements may be hindering compliance and enforcement, as there is confusion over the applicability of different licensing regimens. For instance, consider that the City licenses all of the following separately: junk collectors; junk dealers; junkers; waste tire transporters and generators; private waste collectors; used bicycle, tire or battery dealers; secondhand motor vehicle dealers; and auto wreckers.

Although not all of these businesses deal in the sale of scrap metal, it is conceivable that a business could fall under several of these license requirements at one time. In fact, according to the above LRB memo, other than *“state requirements that secondhand auto sales and salvage operations be separated, a City of Milwaukee junk dealer may be required to be licensed under any or all of the above licensing and permit provisions.”* The potential for improvement in Milwaukee’s scrap metal regulations, then, is even more apparent.

## B. Regulatory Options.

According to the 2010 COPS report:

Tackling the problem of scrap metal theft requires understanding the organizational arrangements between sellers and buyers, in addition to understanding the features of specific theft locations and knowing about individual offenders. It is important to understand how local demand contributes to scrap metal theft and how it influences offenders' behavior.

The report further describes numerous approaches to abating issues of scrap metal theft in local jurisdictions. These approaches are provided in Tables 5 to 9 in the appendix. Although reliable research on the effectiveness of these measures may be limited, the body of research surrounding scrap metal theft is expanding. For instance, in a 2009 study,<sup>26</sup> researchers found that *“scrap yard presence in a community was the factor with the strongest impact on metal theft rate; the more scrap yards a city has, the more metal thefts it may have.”*

Another recent study<sup>27</sup> found that *“prohibiting anonymous cash purchases of scrap metal is likely a viable and cost-effective way of achieving significant reductions in scrap metal thefts in markets where the bulk of thefts occur in residential settings.”*

Although the problem of metal theft is not likely to completely cease as long as scrap metal prices remain attractive to would-be thieves, through the combined efforts of lawmakers, metal dealers, local law enforcement and other community stakeholders, the City might succeed in reducing the problem, while maintaining the viability of the industry.

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<sup>26</sup> Whiteacre, Kevin and Raeann Howes. 2009. *Scrap Yards and Metal Theft Insurance Claims in 51 U.S. Cities*

<sup>27</sup> Mares, Dennis M. and Emily A. Blackburn. June 16, 2014. *Reducing Metal Thefts through the Use of Local Ordinances: An Evaluation of an Impromptu Market Reduction Approach in St. Louis, MO*. Security Journal. Doi: 10.1057/sj.2014.26

**X. APPENDIX**

**Table 2. Summary of Scrap Metal-Related Licensing.**

<b>License / Permit</b>	<b>Description</b>	<b>Term</b>	<b>Fee</b>
Auto Wrecker's License	Issued to persons who buy motor vehicles for purposes of dismantling or disassembling vehicles for the purpose of dealing in the parts thereof.	24 months from date of issuance	\$250 main yard; \$50 each add'l yard
Junk Collector License	License required for persons who buy, sell, collect, gather, or deliver junk within the City as a business.	24 months from date of issuance	\$150 per vehicle; \$50 per pushcart
Junk Dealer License	License required for those who buy, sell, collect, gather or deliver or store junk and maintain a yard or building therefore as a principal place of business.	24 months from date of issuance	\$275 main yard; \$45 each add'l yard
Junker's License (for public & private dumps)	Issued to persons who pick up, gather, assort, carry away, or handle or cause to be handled any material of any kind on a public, private or city dump for salvage, junking or scavenging.	Calendar year	\$20
Fire Prevention Permits	Includes fees relating to the storage of scrap tires and tire by-products indoors or outdoors if exceeding 2,500 cubic feet of total volume and waste material and junk yards.	Annual	\$50
Secondhand Dealer License	License required for those in the business of selling, purchasing, or exchanging secondhand articles of personal property.	One year from date of issuance	\$150
Secondhand Dealer Mall	License required where 2 or more secondhand dealers operate a business from a fixed location.	24 months from date of issuance	\$225
Secondhand Motor Vehicle (Used Car) Dealer's License	License required for those engaging in the business of buying, selling, exchanging, or dealing in used or secondhand motor vehicles. (Retail or Wholesale)	24 months from date of issuance	\$290
Used Bicycle, Tire or Battery Dealer's License	License required for those engaging in the business of buying, selling, exchanging, or dealing in used or secondhand bicycles, bicycle parts, tires and batteries.	24 months from date of issuance	\$75

**Table 3. City of Milwaukee Regulatory Changes Since Approximately 1997.**

File #	Description	Provision
872420	"The license fee for each fixed place of doing business operated in connection with an auto wrecking business shall be \$150." Deletes outdated fee provisions, adds definition of the term "calendar year". No fees changed by ordinance.	81-9-2
970430	Changes expiration date from May 1 to April 30 for the following licenses: auto wrecker's license, bill posting license, dangerous weapon retailer's license, junk collector license, junk dealer license and secondhand dealer mall license	81-9-1
990471	Increases fees for selected licenses, permits and forfeitures (effective January 1, 2000): Auto wrecker: \$150 to \$228 Junk collector on foot or with a handwagon: \$32 to \$45 per cart Junk collector with motor vehicle: \$74 to \$104 per vehicle Junk dealer: Each fixed place of doing business: \$150 to \$211 Junk dealer: Each additional fixed place: \$32 to \$45 Junker's License: \$13 to \$20 Secondhand Dealer's License: \$27.50 to \$33 Secondhand Dealer Mall License: \$165 to \$180 Use Bicycle, Tire, Battery: \$32 to \$45	81-9 81-63 81-64 81-65 81-104 81-104.5 81-130
991039	Requires that the form licensed junk dealers and collectors use when making junk purchases include: 1. A statement as to whether the seller has a junk collector's license and, if so, the number of said license. 2. A written declaration from the seller stating whether the items being sold are personal property and, if not, whether they were acquired under a junk collector's license or if the seller is a licensed plumber, electrician or home improvement contractor.	92-3
011725	Updates text, provides uniformity in licensing procedures and regulations for businesses. Also establishes due process hearing procedures for granting of new licenses, and license nonrenewal, suspension and revocation	Ch. 93
030306	Revises various provisions of the code for purposes of correcting errors, clarifying language and eliminating obsolete provisions	93-13

**Table 3. (Continued).**

File #	Description	Provision
030504	<p>Increases fees for selected licenses, permits and forfeitures, also incorporates technical changes throughout the code necessitated by the reorganization of the department of administration. The ordinance takes effect January 1, 2004:</p> <p>Auto Wrecker: Each fixed place of business: \$228 to \$250  Auto Wrecker: Each additional used for storing: \$32 to \$35  Junk Dealer License: Each fixed place of business: \$211 to \$225  Secondhand Dealer's License: \$33 to \$40</p>	<p>81-9  81-63  81-64</p>
030701	<p>Requires that each vehicle that is for sale on public property display a certificate issued by the department of public works. In order to receive this certificate, an applicant must submit the vehicle for inspection by the department and be able to demonstrate that the vehicle is his or her property or that he or she has the permission of the vehicle's owner to sell the vehicle on the owner's behalf and that the vehicle's vehicle identification number has not been altered in such a way as to render it illegible. The fee for each certificate shall be \$40 and shall be valid for a period of 6 months from the date of issuance. "No secondhand motor vehicle dealer licensed under this chapter may apply for a certificate issued pursuant to s. 101-29 to leave a vehicle that is for sale on public property."</p>	93-26
031615	<p>1. Increases the forfeiture for repeat offenses involving the removal of any material from a waste container that has been furnished by the city for collection of solid waste. The forfeiture for a violation of the solid waste regulations is \$25 to \$500 for the first offense, but increases to \$50 to \$500 for each subsequent offense.</p> <p>2. Increases the forfeiture for repeat violation of the code provisions regulating junk collectors and dealers. The forfeiture is \$250 to \$1,000 for the first violation, but increases to \$500 to \$5,000 for each subsequent offense.</p> <p>3. Increases the forfeiture for possession or removal of a grocery cart or shopping cart from the premises or parking lot of the establishment which furnished the cart without express permission of the management of the establishment. The forfeiture is \$25 to \$500 for the first offense, but increases to \$500 to \$5,000 for each subsequent offense.</p>	92-3
031619	<p>Reduces the working day notice of hearings before the licensing committee for secondhand motor vehicle and auto wrecker licenses if there is a possibility the license will not be issued or to holders of these licenses if there is a possibility that the license will not be renewed from 10 to 5 working days.</p>	<p>93-9  93-11</p>
040631	<p>Revises various provisions of the code for purposes of correcting errors, clarifying language and eliminating obsolete provisions</p>	93-13

**Table 3. (Continued).**

File #	Description	Provision
041379	Establishes that in the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered in lieu of a hearing on non-renewal, revocation or suspension of the license, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth for non-renewal or revocation. Includes secondhand motor vehicles and auto wreckers' licenses.	93-13
050413	Increases various fees and forfeitures: Junk collector with motor vehicle: \$104 to \$125 per vehicle Junk Dealer License: Each fixed place of business: \$225 to \$250 Secondhand Dealer's License: \$40 to \$50 Secondhand Motor Vehicle Dealer: \$260 to \$275	81-63 81-64 81-104 81-104.6
051418	Establishes as grounds for non-renewal, suspension and revocation of a junk dealer or junk collector license. Also establishes that suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any resident. The licensee shall be summoned to appear at an evidentiary hearing of the licensing committee. The committee shall receive testimony from both sides and make a report (findings of fact) and a recommendation to the common council. The licensee shall have an opportunity to file written objections to the committee's report and recommendation prior to the council meeting and to present an oral argument in opposition to the report and recommendation at the council meeting.	92-3
060470	Prohibits parking or standing of any vehicle containing collected junk or in which junk is stored upon any highway of the city except while engaged in the process of loading or unloading.	101-23.2

**Table 3. (Continued)**

File #	Description	Provision
061035	Provides that a motor vehicle used for business purposes subject to licensing as a junk dealer or junk collector shall have identifying signs placed on both sides of the vehicle. Identifying signs must include the name of the business or person operating the vehicle, a valid phone number, and the city of Milwaukee junk license number. The lettering of identifying signs is required to be 3 inches high or more. Signs that satisfy state requirements for signage are deemed to satisfy these requirements. The signage required by this ordinance is in addition to the license sticker that is issued by the city clerk to applicants when a junk collector or junk dealer license is granted	92-3
061146	Repeals the provisions of file number 060470 that were determined to be unenforceable and creates new provisions limited to the parking of vehicles in which junk is collected in activities that are subject to licensure under the requirements of s. 92-3 of the code relating to junk collectors and junk dealers. The parking restriction applies to vehicles used in activities subject to licensing requirements whether or not a valid license has been issued and is in force. This ordinance prohibits parking or standing of a vehicle that contains collected junk or in which junk is stored except while the vehicle is actively engaged in the process of loading or unloading. The prohibition applies to all highways of the city. Vehicles found in violation may be towed. This ordinance also retains the penalty for violations provided in file number 060470 of \$55 to \$75, and retains the \$55 amount for a stipulation.	92-3
070144	Expands upon the purposes for licensing and regulation of junk collectors and dealers to include environmental protections and encouragement of economic growth. Also, the definition of "junk" is clarified to distinguish junk from un-recyclable trash, and to distinguish junk from articles sold or resold as secondhand personal property. Also, provides a definition of "business" for purposes of junk collection and dealing. Two exceptions are provided: the first exception is for environmental clean-up activities organized by individuals or sponsored by nonprofit organizations; the second is for individuals exclusively collecting aluminum cans.	92-3 101-23.2
070789	Amends the definition of junk to clarify that persons in the business of transporting 5 or fewer waste tires at any one time, or used or secondhand motor vehicles or the parts thereof, are required to first hold junk collector or junk dealer licenses, provided that the persons are not otherwise licensed as, and solely engaged in the business of, a waste tire transporter, auto wrecker or secondhand dealer. Also establishes a fingerprinting requirement for license applicants.	92-3



**Table 3. (Continued).**

File #	Description	Provision
080009	Amends various code provisions to clarify and make consistent the procedures of licensing committees and the common council in matters involving license and permit applications, renewals, non-renewals, suspensions and revocations, including those for the non-renewal, revocation or suspension of junk collectors and junk dealers, secondhand motor vehicle and auto wreckers. Also provides for the filing of a written statement in response to committee reports and recommendations that includes objections, exceptions and arguments of law and fact and specifies the individuals who may be permitted to make an oral presentation to the common council on behalf of an applicant, licensee or permittee. Persons who make an appearance before the common council and who require the services of an interpreter are uniformly advised that they may obtain an interpreter at their own expense.	92-3
080189	Establishes that no hearing related to changed circumstances shall be held by the licensing committee within a period of 12 months following the date of denial, nonrenewal or revocation of a license for a reason relating to the fitness of the location of the premises, and that not more than one such hearing involving the same party at the same premises shall be held by the licensing committee during the period of disqualification (includes junk collectors and junk dealers, secondhand motor vehicle dealers and auto wreckers). Also establishes that the fee to file for a hearing related to changed circumstances shall be \$75.	92-3
080486	Amending various fees and forfeitures: Junk collector with motor vehicle: \$125 to \$150 per vehicle	81-63
090222	Amends ordinances consistent with city attorney opinion regarding licensing of gun shows.	92-2
090255	Provides that probative evidence to be considered by the licensing committee in preparing recommendations to the common council on applications for additional fixed places for storage may include the appropriateness of the location, suitability of the premises for the proposed storage of materials, concentration of businesses licensed under this section, and any factor adversely affecting the health, welfare and safety of the public. These factors may include the applicant's record in operating the principal business and any other similarly licensed businesses. Also provides that the renewal, non-renewal, revocation or suspension of a license for an additional fixed place of storage may be considered independently from the renewal of the primary license. However, the non-renewal, revocation or suspension of the primary license may be extended to the license for an additional fixed place of storage if circumstances warrant.	92-3

**Table 3. (Continued).**

File #	Description	Provision
090259	<p>Amends various fees and forfeitures effective January 1, 2010:</p> <ul style="list-style-type: none"> <li>Auto Wrecker: Each additional used for storing: \$35 to \$50</li> <li>Junk collector on foot or with a handwagon: \$45 to \$50 per cart</li> <li>Junk Dealer License: Each fixed place of business: \$250 to \$275</li> <li>Secondhand Dealer's License: \$75 to \$125</li> <li>Secondhand Dealer Mall License: \$180 to \$225</li> <li>Secondhand Motor Vehicle Dealer: \$275 to \$290</li> <li>Secondhand Motor Vehicle Dealer License Transfer: \$45 to \$50</li> <li>Use Bicycle, Tire, Battery: \$60 to \$75</li> </ul>	<p>81-9 81-63 81-64 81-104 81-104.5 81-104.6 81-130</p>
100208	<p>Requires licensed pawnbrokers, secondhand dealers and precious metal and gem dealers to post or upload transaction description records for all items (including item descriptions and pictures, and pictures and identification of borrowers or sellers) directly to a police-approved Internet website at the close of each business day. Junk collectors and dealers are required to post or upload transaction description records for only "regulated property", e.g. aluminum (except cans) and copper items, stained glass, water meters, cemetery plaques, house of worship fixtures, catalytic converters, bicycles and manhole covers. Also lengthens holding periods for purchases made by precious metal and gem dealers and for regulated property purchased by junk collectors and dealers.</p>	<p>92-2 92-3</p>
100365	<p>Amends recordkeeping requirements for junk collectors and junk dealers by requiring that transaction record descriptions of "regulated property" include pictures of the property, copies of seller identification and pictures of sellers. Also amends reporting requirements for junk collectors and junk dealers by requiring that transaction records of "regulated property" purchases be posted or uploaded to a police-approved Internet website at the close of each business day.</p>	<p>92-3</p>
110346	<p>Repeals the requirement that license applicants disclose criminal history on their applications; stipulates that police department criminal history investigations shall be for the preceding 10 years.</p>	<p>92-2</p>
110695	<p>Creates a new category of perimeter landscaping and edge treatment standards, type "I," which may be used for screening heavy motor vehicle parking, heavy motor vehicle outdoor storage and contractors' yards. This landscaping type is an alternative to existing types "E" and "F" and differs from those types primarily in that a decorative metal fence may be used as part of a type "I" treatment, but a masonry wall or opaque fence is required for type "E" or "F."</p>	<p>295-405</p>

**Table 3. (Continued).**

<b>File #</b>	<b>Description</b>	<b>Provision</b>
110991	Standardizes fingerprinting and background investigation requirements for license and permit applicants.	92-2 92-3
111273	Requires junk collectors to provide the year, make, model, vehicle weight and license plate number of the vehicle used in their business. Vehicles may be changed for a \$25 fee.	81-63 92-3
111624	Creates procedures and regulations relating to the transfer of city-issued licenses and permits for change of location, change in family status, death, disability, bankruptcy, or reorganization of a sole proprietorship or business entity. It also requires a permittee or licensee to notify the city clerk of any changes made in the name of a licensed or permitted business within 10 days of the change.	92-2 92-3
120043	Creates additional provision of general applicability (application for renewal of a permit or license issued by the city clerk shall be filed on or before a certain date). Any person who fails to meet deadline shall pay a late fee. The ordinance repeals a number of late-application fees that were specific to certain license types.	81-9-4
120348	<p>Provides that no person shall pawn, pledge, sell, consign, leave or deposit any article of property with or to a licensed pawnbroker, secondhand dealer, junk collector, junk dealer or precious metal and gem dealer if one or more of the following is true:</p> <ol style="list-style-type: none"> <li>1. The article of property is not owned by the person.</li> <li>2. The article of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner.</li> <li>3. Another person has a security interest in the article of property.</li> </ol> <p>This prohibition does not apply to a duly executed power of attorney for the owner of the property, a personal representative of the estate to which the property belongs or the recipient of a lawful written authorization to pledge, sell, consign, leave or deposit the property issued by the owner of the property prior to the time of the transaction. Also establishes a penalty for violating the new prohibition. The same penalty is also established for violating an existing prohibition against giving a false or fictitious name, presenting a false or altered identification document, or giving a false date of birth, address or telephone number to an above business gathering information for a transaction description record.</p>	92-11
121052	Removes the exclusion for video games from those items which are subject to the licensed and regulated activity of secondhand dealers.	92-2

**Table 3. (Continued).**

<b>File #</b>	<b>Description</b>	<b>Provision</b>
121478	Extends the requirement for maintaining and reporting photographs or video recording to items placed on sale for \$10 or more, including tools, electronic devices and musical instruments with or without unique serial or identification numbers permanently engraved or affixed.	92-2
121521	Repeals redundant or contradictory signature requirements for various types of licenses and permits	93-7
131368	Repeals redundant provisions of s. 92-2-6-h. The remaining provisions of s. 92-2-7 clarify that a minor's written authorization by a parent or guardian must be retained on file in order to be used for future transactions business dealings with the minor conducted without the presence of a parent or guardian	92-2
131502	Repeals individually-specified transfer fees for various license types and applies standard license transfer fee of \$25. Also creates standard licensing committee hearing procedures for all applications for new licenses of all license types unless specified elsewhere. Also repeals new-license hearing procedures for secondhand dealer, junk collector/dealer, secondhand motor vehicle sales, auto wrecker, and others.	81-104.6 92-2 92-3
131559	"Each license shall be valid for 2 years from the date of issuance" rather than for a period of time specified in the code (e.g., July 1 to June 30).	81-8 81-63 81-64 81-104 81-104.5 81-130 81-131
131641	Provides additional exceptions to the record-keeping, reporting and holding requirements for secondhand dealers, including video, cassettes, compact discs, vinyl records and for large appliances and furniture (beds, tables, chairs, bureaus, dressers, desks, bookcases, refrigerators, freezers and all other household furnishings and appliances occupying a space greater than 8 cubic feet).	92-2
131726	Requires that a junk collector or junk dealer submit a photograph of each vehicle used in the business of collecting junk within the city in a form and manner acceptable to the city clerk. The photograph or photographs submitted shall clearly display all required elements of signage. No new or renewal license shall be issued until one or more photographs of each vehicle to be used in the junk collector or dealer business has been submitted. Following issuance of a new or renewal license, a new photograph of each replaced or altered vehicle sign shall be submitted to the city clerk within 5 days. Each junk dealer shall submit a photograph to the city clerk of the vehicle and signage within 5 days for each additional or new vehicle used in collecting junk following issuance of a new or renewal license. Also requires that changes to information contained in the application or plan of operation shall be reported to the city clerk within 10 days.	92-3

**Table 4. Zoning Restrictions for Scrap Metal-Related Establishments.**

	<b>Residential</b>	<b>Commercial</b>	<b>Downtown</b>	<b>Industrial</b>
<b>Ground Transportation Services</b>	Prohibited in all districts	Prohibited in NS1 & NS2 districts;  Special use in LB1, LB2, LB3, RB1 & RB2 districts;  Limited use in CS districts*	Mostly prohibited: special use in C9G districts, permitted in C9H districts	Mostly permitted: special use in IO1/IO2 & IM districts
<b>Material Reclamation Facilities</b>	Prohibited in all districts	Prohibited in all districts	Prohibited in all districts	Mostly prohibited: limited use in IH districts
<b>Recycling Collection Facilities</b>	Mostly prohibited: special use in RO1 & RO2 districts	Special use in all districts	Mostly prohibited: special use in C9B, C9C, C9G & C9H districts	Permitted in IL1/IL2 & IH districts;  Special use in IO1/IO2 & IM districts
<b>Salvage Operations, Indoor</b>	Prohibited in all districts	Mostly prohibited: special use in CS districts	Prohibited in all districts	Limited in all districts
<b>Salvage Operations, Outdoor</b>	Prohibited in all districts	Prohibited in all districts	Prohibited in all districts	Prohibited in IO1/IO2 districts;  Special use in IL1/IL2, IM & IH districts
<b>Other Relevant Regulation</b>	Junk yards prohibited as accessory uses;  No tow truck may be parked on a single-family, 2-family or multi-family lot unless inside a building	Junk yards prohibited as accessory uses;  *not more than 15 vehicles shall be stored at any one time	None	Junk yards prohibited as accessory uses;  Junk motor vehicle storage prohibited on some limited uses

**Table 5. Methods for Abating Metal Theft by Increasing the Effort Required to Steal Metal.\***

#	Response	How It Works	Works Best If...	Considerations
1	Hardening scrap metal theft targets	Increases the effort required to steal metal	Stakeholders are educated about crime prevention by environmental design and collaboratively increase physical security	Some initial costs may be incurred to secure targets
2	Securing vulnerable places	Increases the effort required to steal metal	Private security collaborates with police to perform risk assessments, followed by redesigning locations with enhanced security	Some costs may be incurred to secure places

**Table 6. Methods for Abating Metal Theft by Reducing the Rewards for Selling Stolen Metal.\***

#	Response	How It Works	Works Best If...	Considerations
3	Removing attractive targets	Reduces opportunistic theft and increases the effort for serial thieves to find high-value targets	The targets represent a significant portion of the local metal theft problem	Changing the business practices of suppliers and receivers may be necessary, and they may need to be persuaded to do so
4	Replacing copper ground wire with copper weld	Denies thieves the benefits of high-value targets	Offenders are aware that copper targets are copper weld and that copper weld is worth less in resale	Requires the cooperation of utility and construction companies; potential offenders must be informed about the reduced value of copper weld
5	Prohibiting the purchase of restricted materials	Denies thieves the benefits of high-value targets and discourages restricted material theft	Dealers post conspicuous notices that they will not buy restricted materials and notify police when attempted sales occur	Offenders may try to destroy markings on restricted materials, so dealers should also refuse to buy altered or damaged materials
6	Prohibiting cash payments	Denies offenders immediate benefits and increases their risk of being identified	Offenders know they will not receive cash payments before they steal any metal	May require changes in scrap metal dealer business practices to administer check payments
7	Increasing the financial incentive to protect certain metal products	Improves the guardianship of high-value targets	The financial incentive exceeds the value of allowing metal to be sold for scrap	Beer distributors may oppose it out of concern that higher keg deposits will discourage sales

**Table 7. Methods for Abating Metal Theft by Increasing Offenders' Risk.\***

#	Response	How It Works	Works Best If...	Considerations
8	Identifying scrap metal thieves	Increases offenders' risk of detection	Police officers are trained in signs of suspicious activity related to metal theft	May require some specialized training for police officers
9	Identifying scrap metal sellers	Deters thieves from trying to sell stolen metal to scrap metal dealers	State legislation requires all dealers to collect and record photo ID information from each seller	Police may need to persuade dealers to identify sellers; lax scrutiny of IDs may undermine effectiveness; dealers may lose sales
10	Recording and tracking scrap metal transactions	Deters thieves from trying to sell stolen metal to scrap metal dealers	State legislation requires dealers to record relevant information related to purchases and pay sellers by check rather than cash	Scrap metal dealers may need help to set up logistics for keeping and sharing records with police
11	Putting ID marks on targeted metal products	Deters thieves from trying to sell and dealers from buying stolen metal	Potential offenders and dealers know targeted metal is identifiable and it is likely police will challenge them for buying or selling it	May need laws requiring manufacturers to mark products or the technology to mark post-production; property-marking schemes not generally proved effective
12	Conducting sting operations	Deters scrap metal dealers by increasing their risk of arrest for knowingly buying stolen metal	Dealers are given opportunities to improve business practices and police educate them about legislation related to metal theft	May increase the demand for stolen metal; dealers may be less likely to cooperate with the police after the police arrest their employees
13	Surveillance of scrap metal yards	Deters thieves from trying to sell stolen metal to scrap metal dealers	Police challenge suspects when they enter the premises	Risks alienating legitimate customers, which can undermine dealer cooperation; difficult to sustain surveillance for long periods
14	Offering reward money for tips on metal thieves	Increases risks of apprehension and arrest to offenders	Police market hotlines and rewards to the public	Requires funds; staff administers rewards program

**Table 8. Methods for Abating Metal Theft by Removing Offenders' Excuses.\***

#	Response	How It Works	Works Best If...	Considerations
15	Conducting a public awareness campaign	Increases the guardianship of high-value targets and strengthens social disapproval of theft	The campaign is well designed and carefully targeted	Publicity campaigns can be expensive; it may not affect professional thieves' behavior; it is difficult to measure publicity campaigns' direct impact
16	Teaching stakeholders about their responsibilities in preventing the sale of stolen material	Promotes greater regulatory compliance; increases the risks of being denied sale or reported to police	It is targeted to stakeholders who are generally willing to comply with regulations, but just don't understand them	Time-consuming; could require enforcement if cooperation is lacking; may require logistical support to promote scrap recycler implementation and accountability

**Table 9. Responses with Limited Effectiveness.\***

#	Response	How It Works	Works Best If...	Considerations
17	Targeting individual offenders		N/A	Unlikely, by itself, to reduce overall metal theft
18	Enacting and enforcing "tag and hold" legislation		N/A	Unpopular with scrap metal dealers; difficult to enforce

\*Tables 5 to 9 were adapted from the 2010 COPS report.



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