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Sponsors: ALD. WITKOWSKI

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031684
SUBSTITUTE 1

ALD. WITKOWSKI

A substitute ordinance relating to procedures for denial, non-renewal and suspension of junk dealer and junk collector licenses.

- 81-63-2 rp
- 81-63-3 rn
- 81-63-3 cr
- 92-3 rc
- 92-4-2 am

This ordinance repeals and recreates current code provisions related to junk dealer and junk collector licenses, and establishes procedures for granting, denial, renewal, non-renewal and suspension of junk dealer and junk collector licenses. In addition, this ordinance provides for the following:

1. Requires applicants for junk dealer licenses to submit plans of operation for the premises relating to hours of operation, the number of loads expected to be delivered daily, and what plans, if any, the applicants have to provide security and insure for the orderly appearance and operation of the premises with respect to air pollution, noise, litter, rodent harborage and traffic congestion.
2. Establishes a \$20 fee to transfer a junk collector license to a replacement vehicle.
3. Restricts to between 7:00 a.m. and 7:00 p.m. the hours of operation for junk dealers located

within 1,000 feet of a residential zoning district.

4. Requires that all sales of junk, with a certain exception, involving junk dealers purchasing from junk collectors be recorded.
5. Provides that no additional license is required for licensed junk dealers to operate an aluminum can reclaiming machine on their premises.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

PART 1. Section 81-63-2 of the code is repealed.

PART 2. Section 81-63-3 of the code is renumbered 81-63-2.

PART 3. Section 81-63-3 of the code is created to read:

81-63. Junk Collector License.

3. The fee to transfer a license to a replacement vehicle shall be \$20.

PART 4. Section 92-3 of the code is repealed and recreated to read:

92-3. Junk Collectors and Dealers.

1. FINDINGS. The common council finds that businesses handling and dealing in junk can be sources of air pollution, noise, litter, rodent harborage and traffic congestion that adversely affect the health, safety and welfare of the people of the city of Milwaukee. This section is established pursuant to the responsibility of the common council to legislate and license for the protection of the health, safety and welfare of the people of the city of Milwaukee and to diminish the undesirable secondary effects that can result from these operations. In addition, this section is established to prevent stolen property being disposed of because it is misrepresented as legitimately acquired junk and to avoid the storage of junk in a dangerous or unsanitary manner.

2. DEFINITIONS. In this section:

- a. "Junk" means used materials of any kind including rags, paper, rubbish, bottles, glassware, crockery, bags, cloth, rubber, vehicle tires, ferrous and nonferrous metals, clothing, siphons, old rope, plumbing materials, salvage gas and electric fixtures, waste materials, and all articles or things discarded including vehicles and appliances. This definition, however, shall not be deemed to be exclusive.
- b. "Junk collector" means a 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 or an employe of such a dealer.
- c. "Junk dealer" means a person, firm, partnership or corporation that buys, sells, gathers, delivers or stores junk and maintains a yard or building therefor as a principal place of business.
- d. "Objection" means any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from probative information provided by any resident or from the written reports summarizing the arrest and convictions of an applicant filed by the chief of police pursuant to this section.
- e. "Person" means any individual, partnership, corporation, company, association, firm, limited

liability company and limited liability partnership.

3. LICENSE REQUIRED. a. Basic Requirement. It shall be unlawful for any person to engage in the business of junk collector or junk dealer without having first obtained the appropriate license pursuant to this section.

b. Separate License Required. b-1. A separate junk dealer license shall be required for each storage yard or building maintained by a junk dealer as a place of business, except that the license specified in s. 81-64-3 for an added storage yard shall be required when the yard or building is used for the storage of junk only.

b-2. A separate license shall be required for each vehicle employed by a junk collector to buy, sell, collect, gather or deliver junk within the city.

c. Non-transferable. No license issued to a junk collector or to a junk dealer shall be used by any person other than the one to whom it was issued.

d. Replacement of Vehicle. No junk collector license may be transferred to any other vehicle unless the owner or lessee of the vehicle is also the licensee, demonstrates financial responsibility for the vehicle and pays the required vehicle replacement fee specified in s. 81-63-3 for the transfer of a license occurring at a time other than at the time of application for license renewal. The city clerk shall be notified of all vehicle replacements.

e. Exception. This section shall not apply to private waste collectors licensed under s. 79-9-2 and municipalities.

4. APPLICATION. a. Basic Requirement. Application for a junk collector license or a junk dealer license shall be filed with the city clerk on a form provided therefor. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability corporation, and sworn to by the applicant.

b. Separate Application Required. b-1. A separate application for a junk dealer license shall be filed for each yard or building maintained by the applicant to buy, sell, gather, deliver or store junk.

b-2. A separate application for a junk collector license shall be filed for each vehicle to be employed by the applicant to buy, sell, collect, gather or deliver junk within the city. The applicant shall demonstrate at the time of application proof of current state registration for each vehicle.

c. The application shall require:

c-1. The name and permanent address of the applicant.

c-2. The trade name and address of the premise for which the license is to be granted, including the aldermanic district in which it is situated.

c-3. The name and permanent address of the person owning the premises for which the license is to be granted.

c-4. If the applicant is a corporation or limited liability company, the name of the corporation or company shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and permanent address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation or limited liability company. If one or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall

apply to the corporate officers.

c-5. If the applicant is a partnership or limited liability partnership, the application shall set forth the name and permanent address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

c-6. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and permanent addresses of all officers and be verified by an officer of the club, association or organization.

c-7. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

c-8. The date of birth of the applicant.

c-9. Whether the applicant has prior to the date of application been licensed to engage in the business of junk collector or junk dealer in this city and the location of such business, if any.

c-10. Whenever a junk dealer is an applicant, a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

c-10-a. The planned hours of operation for the premises.

c-10-b. The number of loads expected on a daily basis to be delivered to the premises.

c-10-c. What plans, if any, the applicant has to provide security for the premises.

c-10-d. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to air pollution, noise, litter, rodent harborage and traffic congestion.

c-10-e. Any other licenses held by the applicant or attached to the premises.

c-11. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

d. Post office box numbers shall not be acceptable for addresses required on applications for junk collector or junk dealer licenses.

e. Fingerprinting. e-1. Each new applicant for a junk dealer or junk operator license shall be fingerprinted by the police department. If the applicant is a corporation or limited liability corporation, the agent and all the officers and directors as well as the stockholders owning 20% or more of the stock of the corporation shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted.

e-2. Exemptions. The requirement that an applicant be fingerprinted shall not apply to a person already licensed by the city when that person is renewing the license.

e-3. Duplicate Sets Not Required. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for purposes of verification.

5. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 5 days after the change occurs.

6. LICENSE FEE; PERIOD. All applications shall be accompanied by the fee specified in ss. 81-63 or 81-64.

7. ISSUANCE. a. Investigation. a-1. Applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the common council licensing committee.

a-2. For applications relating to junk dealer licenses, the report to the common council licensing committee by the commissioner of neighborhood services shall include information related to the zoning district in which the principal place of business of the junk dealer is to be located.

b. All license applications shall be referred to the licensing committee. If there is a possibility of denial of a license application, the licensing committee shall hold a hearing on whether or not to grant the new license, except that no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial. If the possibility of denial is based on the fitness of the location of the premises to be maintained as the principal place of business, the notice shall also be served upon the owner of the premises so that the owner has at least 3 days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this subdivision related to the notice to the applicant.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the

applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements.

e-2. The appropriateness of the location and premises to be maintained as the principal place of business and whether the premises will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to sub. b-10.

e-3. Whether there is an over-concentration of businesses licensed under this section in the neighborhood such that the concentration will have an adverse impact upon the public health, safety and welfare of the neighborhood.

e-4. The applicant's record in operating similarly licensed businesses.

e-5. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the permitted activity.

e-6. Any other factors which reasonably relate to the public health, safety and welfare.

f. If the possibility of denial is based on the fitness of the location of the premises to be maintained as the principal place of business, the owner of the premises shall have the same rights related to a due process hearing provided to the applicant under this subsection.

g. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

h. If the common council grants the application for a junk dealer or junk collector license, the city clerk shall issue a license to the applicant in accordance with this section.

h-1. The license shall contain any restrictions or conditions the common council may place on approval.

h-2. Licenses issued to junk collectors shall contain the vehicle information and the location where the vehicle is to be parked.

8. DISQUALIFICATION. a. Whenever an applicant for a new license has had his or her application denied for a reason not relating to the fitness of the location of the premises to be maintained as the principal place of business, it shall be entered on the record by the city clerk and no junk dealer or junk collector license shall be granted to the same person for a period of 12 months following the date of denial.

b. Whenever an applicant for a new junk dealer license has had his or her application denied for a reason relating to the fitness of the location of the premises to be maintained as the principal place of business, no other application for a junk dealer license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of the denial unless the applicant or the owner of the premises has demonstrated a change of circumstances since the prior denial. Before the committee considers any application, the applicant or the owner of the premises shall file with the city clerk a written statement setting forth the change in circumstances relating to the fitness of the location of the proposed principal place of business since the prior denial. In considering whether changed circumstances exist, the committee shall consider, among other factors:

b-1. A change in the number of businesses licensed under this section in the neighborhood.

b-2. A change in zoning applicable to the subject property.

b-3. New developments of land uses in the vicinity of the subject property.

c. Hearing. c-1. Whenever an application accompanied by a written statement of changed circumstances is filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the applicant and the applicant's attorney with respect to demonstration of a change in circumstances.

c-1-a. If the committee determines that the applicant has failed to demonstrate that a sufficient change in circumstances exists to justify a new hearing on the merits, the committee shall recommend that the application be denied.

c-1-b. If the committee determines that a sufficient change in circumstances has been demonstrated to justify a new hearing on the merits, the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

c-2. Whenever the owner of the premises has filed a written statement of changed circumstances and no application for a junk dealer license involving the premises to be maintained as the principal place of business has been filed, the committee shall hold a hearing to determine if changed circumstances exist. At the hearing, testimony shall be limited to that of the owner of the premises and the owner's attorney with respect to demonstration of a change in circumstances.

c-2-a. If the committee determines that the owner of the premises has failed to demonstrate that a sufficient change in circumstances exists, no application for a junk dealer license involving the location shall be recommended for approval by the licensing committee within 3 years of the date that the application for a junk dealer license for the location was denied for a reason relating to the fitness of the location of the premises to be maintained as the principal place of business.

c-2-b. If the committee determines that a sufficient change in circumstances has been demonstrated, an application for a junk dealer license involving the location may be recommended for approval by the licensing committee.

9. CHANGE IN PLAN OF OPERATION. If, after the license has been granted or issued, the licensee wishes to substantially deviate from the plan of operation as submitted with the original application, the licensee shall file a sworn, written request with the city clerk which states the nature of the change. No change shall take place until the common council has approved the request. The common council's approval shall be given only if it determines, in the manner set forth in sub. 7-f-2, that the change is compatible with the normal activity of the neighborhood in which the principal place

of business is located.

10. PROCEDURE FOR RENEWAL. Applications for the renewal of a junk dealer or junk collector license shall be made to the city clerk. The clerk shall refer the application to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If the chief of police, the commissioner of neighborhood services and the commissioner of health indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless an objection, written or otherwise, has been filed with the city clerk at least 60 days prior to the date on which the license expires. Any interested person may file this objection. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

11. PROCEDURE FOR NON-RENEWAL. a. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

b. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement of the common council's intention not to renew the license or suspend the license in the event any objections to renewal are found to be true.

b-3. A statement of the reasons for non-renewal. If the possibility of denial is based on the fitness of the location of the premises maintained as the principal place of business, the notice shall also be served upon the owner of the premises so that the owner has at least 3 days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this paragraph related to the notice to the applicant.

b-4. A statement that an opportunity will be given to respond to and challenge such reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-5. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. c-1. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 13.

c-2. If the possibility of non-renewal is based on the fitness of the location of the premises maintained as the principal place of business, the owner of the premises shall have the same rights related to a due process hearing provided to the applicant as set forth in sub. 13.

d. Disqualification. d-1. Whenever any license is denied renewal for a reason not relating to the fitness of the location of the premises maintained as the principal place of business, it shall be entered on the record by the city clerk and no junk dealer or junk collector license shall be granted to the same person for a period of 12 months following the date of non-renewal.

d-2. Whenever any license is denied renewal for a reason relating to the fitness of the location of the

premises maintained as the principal place of business, it shall be entered on the record by the city clerk and no other application for a junk dealer license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of the denial unless the applicant or the owner of the premises has demonstrated a change of circumstances since the prior denial as set forth in sub. 8.

e. Surrender. When any license is surrendered in lieu of a pending non-renewal proceeding, no other junk dealer or junk collector license shall be granted to the same person for a period of 12 months following the date of its surrender.

12. PROCEDURE FOR REVOCATION OR SUSPENSION. a. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing.

b. 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 city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate ordinances that are grounds for revocation or suspension of a license, the city clerk shall issue notice to the licensee of the licensing committee's intention to hear the matter. The notice shall be served upon the licensee so that the licensee has at least 10 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of suspension or revocation of the license exists and the reasons for possible revocation or suspension.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for revocation or suspension and to present witnesses under oath and to cross-examine opposing witnesses under oath.

c-4. A statement that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation or suspension.

e. If the licensee appears before the committee at the time designated in the notice and denies the charges contained in the complaint, an evidentiary hearing in connection with the revocation or suspension shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the licensee in connection with the revocation or suspension.

f. Hearings. f-1. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 13.

f-2. If the possibility of revocation is based on the fitness of the location of the premises maintained

as the principal place of business, the owner of the premises shall have the same rights related to a due process hearing provided to the applicant as set forth in sub. 13.

g. Disqualification. g-1. Whenever any license is revoked for a reason not relating to the fitness of the location of the premises maintained as the principal place of business, it shall be entered on the record by the city clerk and no junk dealer or junk collector license shall be granted to the same person for a period of 12 months following the date of revocation.

g-2. Whenever any license is revoked for a reason relating to the fitness of the location of the premises maintained as the principal place of business, it shall be entered on the record by the city clerk and no other application for a junk dealer or junk collector license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of the revocation unless the applicant has demonstrated a change of circumstances since the prior revocation as set forth in sub. 8.

h. Surrender. When any license is surrendered in lieu of a pending revocation or suspension proceeding, no other junk dealer or junk collector license shall be granted to the same person for a period of 12 months following the date of its surrender.

13. HEARING PROCEDURE. a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a junk dealer or junk collector license pursuant to this subsection. The

chair of the licensing committee shall be the presiding officer.

b. Committee Hearing Procedure. b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

c. Record. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

d. Grounds for Non-renewal, Suspension and Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or frequenters.

d-3. Failure to abide by conditions imposed by the common council pursuant to s. 92-3-7-h-1.

d-4. Failure to abide by provisions of building and zoning code relating to the deposit or storage of junk and the parking of commercial vehicles.

d-5. Neighborhood problems due to management or the appropriateness of the location and premises where the principal place of business or added storage yard is located.

d-6. A showing that the premises where the principal place of business or added storage yard is located has been the source of one or more of the following:

d-6-a. Disturbance of the peace.

d-6-b. Sale or purchase of stolen goods.

d-6-c. Excessive littering.

d-6-d. Loud noise at times when the operation is open for business.

d-6-e. Traffic violations.

d-7. Any other factor or factors which reasonably relate to the public health, safety and welfare or which demonstrate that the premises where the principal place of business or added storage yard is located has generated the undesirable secondary effects set forth in sub. 1.

f. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed or revoked. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license may be suspended for not less than 10 days and no longer than 90 days. All non-renewals, suspensions and revocations shall be effective upon service of notice of the non-renewal, suspension or revocation upon the licensee or person in charge of the premises maintained as the principal place of business at the time of service.

g. Council Action. g-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

g-2. If the committee recommends that the license not be renewed, be revoked or suspended, then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

g-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

g-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by certified mail and also notify the city attorney that the common council will convene.

Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be suspended or revoked or non-renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subdivision and who requires the services of an interpreter shall obtain one at his or her own expense.

g-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending non-renewal, suspension or revocation with the committee's report and recommendation, the city clerk shall give notice of each nonrenewal, suspension or revocation to the person whose license is non-renewed, suspended or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

h. Request to Surrender a License. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

14. REGULATIONS. a. Sales Form Required. No junk collector or junk dealer may purchase, in cash, any ferrous or nonferrous metal, with the exception of aluminum cans, without properly recording each sale on a form approved by the police department. The form must include:

a-1. A transaction number.

a-2. The date of the transaction.

a-3. The printed name and address of the seller.

a-4. A statement as to whether the seller holds a junk collector's license and, if so, the number of the license.

a-5. The type and weight of the property sold along with an additional description of the property, if applicable.

a-6. A statement as to whether the property being sold is the wholly-owned personal property of the seller and, if not, whether the property was obtained under a junk collector's license or if the seller is

a licensed electrician under s. 222-11, a certified home improvement contractor under s. 95-14, or a licensed plumber under ch. 145, Wis. Stats.

a-7. The amount of the sale.

a-8. The seller's signature.

b. Payment by Check. With the exception of those items listed in par. c, if a junk collector or junk dealer issues a check for a sale, the sale need not be recorded as provided in par. a.

c. Exceptions. All sales involving aluminum siding, screens, windows, window frames and doors, metal bathtubs and sinks, nonplastic pipe and manhole covers, including lids, grates and frames, whether or not the seller is paid in cash or by check, must comply with par. a and in addition, include the seller's date of birth, a valid form of identification or the license number of the seller's vehicle. For the sale of any manhole cover, the seller shall also be required to provide documentation to verify how, where and from whom the cover was acquired. If the documentation cannot be verified as to authenticity, the collector or dealer shall be prohibited from making the purchase.

d. Buying From Minors. No junk collector or junk dealer may purchase any ferrous or nonferrous metals from any person less than 18 years of age, unless that person is with a parent or guardian. The parent or guardian with the minor must sign a consent form which permits the minor to transact business with the collector or dealer. The collector or dealer may retain the written consent form and use it for subsequent transactions, without the parent or guardian being present.

e. Buying From Junk Collectors. All sales of junk, with the exception of aluminum cans, involving purchases by junk dealers from sellers who are licensed junk collectors, whether or not the seller is paid in cash or by check, shall be recorded as provided in par a.

f. Records To Be Maintained. Records of purchases of ferrous or nonferrous metal by any junk collector or junk dealer licensed under this section, which shall include the information listed in par. a, shall be maintained at each licensee's premises. Each entry shall be made in ink and shall not be changed, erased or mutilated. Such records shall be made available for police department inspection during the licensee's normal business hours. The police department may forward copies of such records to any other law enforcement agency.

g. Holding Period. The chief of police or any police officer designated by the chief may, at the chief's discretion, cause any ferrous or nonferrous metal believed to have been sold by someone other than the lawful owner to be held for the purpose of identification by its lawful owner for not more than 48 hours.

h. Wholesale Lots. This section shall not apply to the buying, handling and selling of scrap metal in wholesale lots from regularly established foundries, mills, manufacturers, certified home improvement contractors, as defined in s. 95-14, or licensed junk dealers. When such purchases are made from a licensed junk collector, the record of such purchase shall state the junk collector's license number.

i. License Plates. Each vehicle used by a junk collector or junk dealer for business purposes shall have affixed to it in a prominent place a license sticker with the words "junk collector" or "junk dealer" stamped on it. The city clerk shall issue the stickers at the time the license is granted.

j. Hours of Operation. Junk dealer operations shall be limited between the hours of 7:00 a.m. and 7:00 p.m. on all days of the week for all junk dealer storage yard or building sites within 1,000 feet of a residential zoning district measured in a straight line from the edge of the junk dealer storage yard

or building.

k. Regulations to be Posted. A copy of these regulations shall be issued to each junk dealer at the time the license is granted. These regulations must be posted in a conspicuous place on the premises of each junk dealer's business.

15. PENALTY. Any person, firm, partnership or corporation found guilty of violating this section shall be subject to a forfeiture in a sum not less than \$250 nor more than \$1,000, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not to exceed 40 days.

PART 5. Section 92-4-2 of the code is amended to read:

92-4. Aluminum Can Reclaiming Machines.

2. LICENSE REQUIRED. No person shall operate an aluminum can reclaiming machine in the city without obtaining a license for its operation>>, unless the machine is operated on the premises of a junk dealer licensed under s. 92-3-3<<. Applications for an aluminum can reclaiming machine license shall be made to the city clerk on forms furnished by the city clerk, and shall provide such information as required by the city clerk.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB04128-2

RGP

9/21/04