



REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: December 18, 2007

SUBJECT: Proposed Amendments to Chapters 13 (Licenses) and 16
(Pawnbrokers), Junk and Secondhand Dealers) of the Code of the
City of Woodland

Report in Brief

The proposed amendments would regulate specified businesses dealing in recycled or scrap metals, require those businesses to adhere to specific recordkeeping and reporting requirements for copper, copper alloys, stainless steel, aluminum, and other commodities purchased; institute payment waiting periods and check only restrictions. The goal of the proposed amendments is to deter the theft of certain material for financial gain, and to ensure better tracking if purchased items are later found to be stolen.

Staff recommends that the City Council approve the amendments to Chapters 13 and 16 as summarized below:

- A. Add Article VII to Chapter 13 to:
 - a. Require a specific license to act as a pawnbroker, recycler, junk or secondhand dealer (§ 13-7-1)
 - b. Specify the license application (§ 13-7-2)
 - c. Establish an annual application and daily transaction review fee of \$150 (§ 13-7-3)
 - d. Establish a process to appeal the denial, suspension, or revocation of a license (§ 13-7-4)
 - e. Establish a disciplinary process and grounds for discipline of licensees (§ 13-7-5)
 - f. Provide for revocation of a license without a hearing upon conviction of criminal violations related to the operation of the business (§ 13-7-6)
- B. Amend sections:
 - a. § 16.1 to include the term “recycler”
 - b. § 16.4 to include the term “recycler” and to prohibit described business from purchasing specified items from a person known, or reasonably should be known, to be under the age of 18.
 - c. § 16.8 to allow for the sale of items purchased after 5 days and requires payment are made in the form of check or draft no sooner than 15 days after purchase.

- d. § 16.10 to include the term “recycler” and to specify in more detail the information to be contained within reports of items purchased by the business.
- C. Add sections:
- a. § 16.11 requiring specified business to immediately contact police when certain types of property are brought in for sale such as items only used for specified uses and/ or users.
 - b. § 16.12 to require a valid bill of sale or permit to transport specified materials on the roadway.
 - c. § 16.13 establishing license requirement.
 - d. § 16.14 establishing the penalty for a violation of this chapter.

Background

Metal theft is a growing problem, once reserved to rural areas where thieves cannibalized farm equipment, or stripped an electric pump station of circuit breakers and wire. Thieves have now moved to cities where copper and aluminum are much more available at construction sites and in warehoused locations. With demand from international markets increasing, salvage prices for copper and aluminum have skyrocketed and in turn so has theft. The problem has been widespread and is a regional, if not a nationwide crisis.

Sacramento has seen thieves tear up city streetlights to extract copper wire, leaving neighborhoods in the dark. Yolo and El Dorado County have reported aluminum irrigation pipes being pulled out of the ground and copper wire being torn out of the walls at construction sites. Woodland has experienced thousands of dollars in similar thefts in addition to the loss of copper and aluminum building materials from PG&E and local businesses.

As recently as November 19th thru November 20th three burglaries have occurred to local businesses resulting in copper wire thefts amounting to over \$60,000.00. Four (4) subjects were caught stripping the stolen copper wire at a secondary location. This year over \$83,000.00 has been reported stolen. Arrests have resulted in a few theft cases but in general thieves go undetected due to the inability of law enforcement to identify and track thieves when they sell stolen property to secondhand junk dealers.

In 2007 Assembly Bill 844 was initiated and aimed at stopping thieves from converting stolen scrap metal into quick cash. The bill was not passed by the legislature and thus it was left to local jurisdictions to address this growing crime problem. The proposed amendment to Chapter 16 will provide better regulation of recycling and salvage activities to thwart the disposal of stolen metals at these facilities.

The added requirements would require that junk dealers improve recordkeeping for copper, copper alloys, stainless steel and bulk aluminum transactions. It also would mandate that dealers pay for some metals with checks, unless the transaction is with a regular customer. The goal is to ensure better tracking if the metals are later found to be stolen. Currently there is one business in the City

of Woodland operating as a scrap metal recycler (junk dealer). A second company which operates a related business in the City of Woodland is considering expansion to scrap metal recycling.

Discussion

Presently, most transactions of scrap metal are cash based sales, allowing for quick disposal of stolen items. Changes to the ordinance include; *mandating dealers pay for some metals with checks, unless the transaction is with a regular customer*. Payment by check will allow for identification of sellers and the ability for the buyer to stop payment if items are determined to be stolen. The (15) fifteen day payment waiting period will provide sufficient time to discover fraudulent transactions.

Currently the ordinance states “all articles purchased by a pawnbroker, junk or secondhand dealer must be held intact for a period of at least fifteen days from the date of purchase.” With check transactions this requirement can be reduced to five (5) days and payment will be set at fifteen (15) days. Regular customers are exempt from the payment waiting period and are defined as businesses that have recycled items as a byproduct of their primary operation or individuals/businesses contracting to do clean-up of sites containing recyclable items.

The amendments would require recyclers or salvage yards to immediately contact the police department when someone presents items which reasonably appear to be used only by governments, utilities, railroads, or for specific purposes. As presently written the ordinance does not require such reporting requirements on buyers. Attempts to sell items categorized above will bring immediate police oversight and scrutiny.

Dealers would also be required to have sellers provide a thumb print and valid picture identification upon sale of items. Positive identification of sellers remains problematic. The use of fictitious identification can be thwarted by the requirement to provide a thumb print. The ordinance presently has no provisions for a mandatory thumb print by sellers.

An annual fee of \$150 shall be assessed for each pawnbroker, recycler, junk or secondhand dealer’s license to cover the reasonable costs associated with the Police Department’s applicant review and daily transaction review. This fee would be in addition to business license fees and placed in the Police budget. This fee amount was supported by Cal Sheriff’s and AB 844 in the drafting of the state legislation. There is no compensation provision to the Police Department to offset the cost necessary to review daily transactions and applicant review in the ordinance as presently written.

Transportation on public roads shall require a valid bill of sale for the junk metal or a written permit issued by the owner of the junk metal authorizing the removal and transport. The ordinance presently has no provisions for transporting junk metals. This amendment will enhance law enforcement’s ability to identify stolen items in transit to recyclers or storage locations.

The benefits associated with the City Council’s approval of the staff recommendations include: a) positive identification of individuals involved in fraudulent transactions; b) provisions set in place to

thwart the ease of stolen property disposal; and c) reduction in claims, project overruns and delays to businesses victimized by thefts and vandalism during theft activities.

The Sacramento Sheriff's Department is also in the process of drafting similar restrictions which should alleviate concerns that sellers of recycled items will drive over the river and sell items resulting in local recyclers losing business.

Failure to enact the purposed recommendations will allow sellers of stolen items to continue to do business as usual while using recyclers as a means for property disposal.

Fiscal Impact

Enacting these amendments will have little or no fiscal impact on the City. The amendments will require some additional effort by the City to regulate and monitor specified businesses. An annual business fee has been implemented to offset the required applicant review and for the review of daily transactions. Investigating suspicious transactions will place additional demands on the Police Department that may be offset by future reductions in metal theft investigations.

Public Contact

The Police Department met with business owners who operate or plan to operate as a pawnbroker, recycler, junk or secondhand dealer in the City. These business owners were Jim Martinez (J&M Recycling, 1310 E. Beamer St. Woodland), and Eric Jacobson and Jim Gedney (Recycling Solutions) who intend to operate at 104 Matmor Road, Woodland.

J&M Recycling owner, Jim Martinez opposed payment by "check only" and the 15 day payment delay. He was concerned that these practices would mean a loss of business due to payment delay and foreseeing a future IRS requirement to provide a form 1099 disclosure of each check payment transaction. Mr. Martinez was also concerned that holding purchased metals for any length of time after setting a purchase price could cause his business to lose money due to fluctuations in the metals market.

Recycling Solutions, owners Eric Jacobson and Jim Gedney agreed with the ordinance but sought assurances that these business restrictions would apply throughout Yolo County and all cities within. A threshold exemption of \$250.00 dollars was proposed on transactions along with a reduction in the 15 day payment waiting period to 7 business days. The owners felt there should be more specific language in the local to exempt aluminum can recycling although it is specifically exempted § 21600B&P. Mr. Gedney also suggested an exemption to the payment delay if the buyer verified the letter authorizing transportation and property ownership. The owners also sought an exemption from the requirements for "regular customers". This exemption can be provided through § 21604 of the State Business and Professions Code. For the purpose of state law and these proposed amendments, "regular customers" connotes a business relationship between licensed businesses that regularly

engage in transactions related to recycling. State law and these proposed amendments do not provide an exemption for private sellers not engaged in the business of recycling.

Alternative Courses of Action

Staff recommends that the City Council consider the following alternative courses of action:

1. Approve the amendments to Chapters 13 and 16 as summarized below:

A. Add Article VII to Chapter 13 to:

- a. Require a specific license to act as a pawnbroker, recycler, junk or secondhand dealer (§ 13-7-1)
- b. Specify the license application (§ 13-7-2)
- c. Establish an annual application and daily transaction review fee of \$150 (§ 13-7-3)
- d. Establish a process to appeal the denial, suspension, or revocation of a license (§ 13-7-4)
- e. Establish a disciplinary process and grounds for discipline of licensees (§ 13-7-5)
- f. Provide for revocation of a license without a hearing upon conviction of criminal violations related to the operation of the business (§ 13-7-6)

B. Amend sections:

- a. § 16.1 to include the term “recycler”
- b. § 16.4 to include the term “recycler” and to prohibit described business from purchasing specified items from a person known, or reasonably should be known, to be under the age of 18.
- c. § 16.8 to allow for the sale of items purchased after 5 days and requires payment are made in the form of check or draft no sooner than 15 days after purchase.
- d. § 16.10 to include the term “recycler” and to specify in more detail the information to be contained within reports of items purchased by the business.

C. Add sections:

- a. § 16.11 requiring specified business to immediately contact police when certain types of property are brought in for sale such as items only used for specified uses and/ or users.
- b. § 16.12 to require a valid bill of sale or permit to transport specified materials on the roadway.
- c. § 16.13 establishing license requirement.
- d. § 16.14 establishing the penalty for a violation of this chapter.

2. Do not enact a local ordinance and support enactment of a statewide statute.

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ITEM:

Recommendation for Action

Staff recommends that the City Council approve adopting the proposed amendments in Chapters 13 and 16 stated as Alternative No. 1.

Prepared by: David Ingman
Lieutenant, Investigations Division

Reviewed by: Carey Sullivan
Chief of Police

Mark G. Deven
City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND
AMENDING CHAPTER 16 AND ADDING ARTICLE VII TO CHAPTER 13 OF THE
WOODLAND MUNICIPAL CODE RELATING TO PAWNBROKERS, JUNK, AND
SECONDHAND DEALERS**

The City Council of the City of Woodland does hereby ordain as follows:

- 1. Purpose.** The purpose of this Ordinance is to amend Chapter 16 of the City of Woodland Municipal Code to clarify and add special considerations and restrictions to the business operations of pawnbrokers, junk and secondhand dealers. Additionally, this Ordinance adds Article VII to Chapter 13 of the City of Woodland Municipal Code to require any person desiring to act as a pawnbroker, junk or secondhand dealer to obtain a valid license.
- 2. Authority.** The City Council enacts this Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.
- 3. Amendment.** The title of Chapter 16 and Sections 16.1, 16.4, 16.8, and 16.10 of Chapter 16 of the City of Woodland Municipal Code are hereby amended in their entirety to read as follows:

CHAPTER 16

PAWNBROKERS, JUNK AND SECONDHAND DEALERS*

Sec. 16.1. Hours of business; exceptions.

It is unlawful for any person to open, keep open or allow to be kept open, any store, shop or place for the transaction of any business, or the business of a pawnbroker, recycler, junk dealer or dealer in secondhand goods, wares, merchandise or commodities other than household furniture, or to maintain, conduct or transact the business of a pawnbroker, recycler, junk dealer or dealer in secondhand goods, wares, merchandise or commodities other than household furniture on any Sunday, or at any time except between the hours of 7:00 A.M. and 7:00 P.M. of the same day; provided, however, that such store, shop or place may be kept open and business conducted thereat for the additional hours of 7:00 P.M. to 11:00 P.M. of the same day during the month of December each year and also on the nights preceding all legal holidays.

* * *

Sec. 16.4. Record book--Information on purchases.*

Every person maintaining or operating any store, shop or place for the transaction of any business, or the business of a pawnbroker, recycler, junk dealer or dealer in secondhand goods,

* For state law as to secondhand goods generally, see B. & P. C., §§ 21500 to 21609. As to junk, see B. & P. C., §§ 21600 to 21609. As to reports of purchases and sales of secondhand bicycles, see § 5.10 of this Code.

wares, merchandise or commodities other than household furniture, shall keep at such place of business a substantial, well-bound book in which there shall be entered at the time of purchase an exact description of all articles purchased by such person, the date of purchase, the price paid therefor, the name and residence or place of business from whom purchased, the signature of the seller, and all particular and prominent marks of identification that may be found on such article. It is unlawful for any pawnbroker, recycler, junk dealer or dealer in secondhand goods, wares, merchandise or commodities other than household furniture to purchase, or otherwise acquire, any article from any person known, or reasonably should be known, to be under the age of eighteen years.

* For state law as to records to be kept by junk dealers, see B. & P. C., §§ 26105 to 21609.

* * *

Sec. 16.8. Articles purchased not to be sold for five days.

All articles purchased by a pawnbroker, recycler, junk or secondhand dealer must be held intact for a period of at least five (5) days from the date of purchase in the place of business designated for that purpose before the same shall be sold. It is unlawful for any pawnbroker, recycler, junk or secondhand dealer to make any payment for the purchase of any article to any person except by paper draft or check after a minimum period of fifteen (15) days from the date the article was received for purchase.

* * *

Sec. 16.10. Report of purchases; blanks furnished by chief of police.

Every person maintaining or operating any business of a pawnbroker, recycler, junk or secondhand dealer shall, before the hour of 10:00 A.M. of each and every day, except Sunday, deliver to the chief of police a true report in writing setting forth a description of each and every article purchased during the day immediately preceding such report and also the name, residence or business address of the vendor thereof, the amount of money paid for each article and any particular or prominent marks of identification that may be found on each article purchased, together with the date and hour of the receipt of each article. The report made on each Monday shall embrace all purchases made from and after the report made on the Saturday preceding. All reports herein required to be made shall be made on blank forms to be furnished by the chief of police on application therefore. All reports shall contain the information required by California Business and Professions Code section 21606 and additionally include the fingerprint of the right hand index finger of the seller of the article, unless such finger is missing, in which event the print of the next finger in existence and any additional information required as shown on the blank forms provided by the chief of police.

4. **Addition.** Sections 16.11, 16.12, 16.13, and 16.14 are hereby added to Chapter 16 of the City of Woodland Municipal Code to read as follows:

Sec. 16.11. Special Considerations for Certain Transactions.

A. Every pawnbroker, recycler, junk or secondhand dealer shall immediately notify the Police Department by telephone, or other means likely to reach the Police Department without delay, of the sale or purchase of any article which reasonably appears to be used only by governments, utilities, railroads, or for specific purposes, such as guardrails, manhole covers, aluminum irrigation pipes, high voltage transmission lines, historical markers, cemetery plaques, light poles, or bleachers.

B. Every pawnbroker, recycler, junk or secondhand dealer shall hold all scrap metals described in this Section 16.11 in its custody in the same condition in which it was received for a minimum of five (5) days before the scrap metals and alloys may be sold, conveyed, or disposed of.

Sec. 16.12. Transportation of Junk Metals Upon Public Roads.

A. **Permits Required.** Any person who transports junk metal which includes, but is not limited to wire, cable, copper, iron, brass, steel, or aluminum on public roads in the City of Woodland shall have in that person's possession a valid bill of sale for the junk metal or a written permit issued by the owner of the junk metal authorizing the removal and transport.

B. **Contents of Permit.** Any such permit shall include, but is not limited to, all of the following:

1. The name, address, and signature of the owner.
2. The owner's phone number, if available.
3. The name, address, and signature of the permittee.
4. A description sufficient to identify the real property from which the junk metal was removed.
5. The date of issuance of the permit or bill of sale and the duration of the period of time within which the junk metal may be removed.
6. Any conditions or additional information which the owner may impose or include.

C. **Exemption for Company Vehicles.** This Section 16.12 shall not apply to the transport of any junk metal carried by a company-identified vehicle or junk metal stamp by CA Cash Refund.

D. **Protective Custody.** Failure to produce the bill of sale or permit required by this Section 16.12 upon demand of any officer of the City Police Department shall constitute

sufficient grounds to hold the junk metal in protective custody until proof of legal right to transport is furnished.

E. Expenses. Any expense incurred in caring for any property taken into protective custody pursuant to this Section 16.12 shall be paid by the owner of the property. The cost of caring for the property so held is a lien upon the property. The lien may be enforced in the manner prescribed in Section 3052 of the California Civil Code.

Sec. 16.13. License Requirements.

It is unlawful for any person to open, keep open or allow to be kept open any store, shop or place for the transaction of any business, or the business of a pawnbroker, recycler, junk dealer or dealer in secondhand goods, wares, merchandise or commodities other than household furniture, or to maintain, conduct or transact the business of a pawnbroker, recycler, junk dealer or dealer in secondhand goods, wares, merchandise or commodities other than household furniture, without a valid license from the City of Woodland, issued pursuant to Article VII of Chapter 13 of the city code, to act in such capacity in the incorporated areas of the City.

Sec. 16.14. Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500) or imprisonment in the County Jail for not more than six (6) months, or both such fine and imprisonment.

5. Addition. Article VII is hereby added to Chapter 13 of the City of Woodland Municipal Code to read as follows:

Sec. 13-7-1. License required.

It is unlawful for any person to act as a pawnbroker, recycler, junk or secondhand dealer, as defined in Chapter 16 of the city code, without first making an application for and receiving from the City of Woodland a license to act as such pawnbroker, recycler, junk or secondhand dealer in the incorporated areas of the City. A license issued pursuant to this Article VII shall be valid for a period of one (1) year from the date of issuance.

Sec. 13-7-2. License Application.

A. Contents.

1. Any person required to have or renew a license hereunder shall file a written application with the City Police Department upon a form prescribed by the Police Department. If the application is made by an individual, the contents of the application shall include the name and age of the applicant, his/her present address(es), and the name under which, and the place where, the applicant has conducted a similar business within twelve months immediately preceding the date of the application. S/he shall additionally affirm under penalty of perjury that the contents of the application are true and correct. If the application is made by a partnership, association or corporation, the application shall be completed by the general manager thereof, or by one having the authority of a general

manager. In such case, the application shall state the true name of the organization, the organization's effective date, its type, the location of its principal place of business, and the names and addresses of its officers or, in the case of a co-partnership, the names and addresses of all the partners.

2. If applicable, in accordance with California Business and Professions Code sections 12703 and 12733, the applicant shall attach to the application documentation that the applicant holds a current and active California Weighmaster License. A copy of the applicant's current Weighmaster License shall be displayed in a prominent location at each location where the applicant conducts business.

3. The applicant shall acknowledge having read Penal Code section 496a, which shall be prominently set forth on the application in bold type.

B. Employee Identification. The applicant, at the request of the City of Woodland, shall submit, concurrently with its application, photographs and fingerprints of all the individuals who are to be engaged in the management of the business or in buying or otherwise acquiring articles for the business for which the license is requested. In the event any other person, after the license has been granted, is engaged in the management of the business or in buying or otherwise acquiring articles, the applicant shall furnish to the City of Woodland, at its request, the photograph and fingerprints of such person(s). No license shall be issued until any such demand has been complied with, and any license that has been issued shall be suspended or revoked if the applicant does not, within a reasonable time, comply with the provisions of this Section 13-7-2.

C. Investigation. Upon receipt of a completed application pursuant to this Article VII, the application shall be immediately referred to the City's Department of Planning and Community Development and the City's Department of Environmental Resources for the purpose of conducting any necessary investigation(s) concerning the legality of the information contained in the application and applicant's business. These departments shall, after investigation, file a report with the Police Department designating whether or not the application is for a valid business. No applicant shall be granted a license under this Article VII unless and until it has been determined that the applicant's conduct or proposed conduct of the business does and will comply with all applicable laws and ordinances, including but not limited to those relating to the public health and zoning. These departments shall be allowed sixty (60) days from the date of receiving a completed application within which to file the report.

Sec. 13-7-3. Fees.

An annual fee of \$150 shall be assessed for each pawnbroker, recycler, junk or secondhand dealer's license to cover the reasonable costs associated with the City Police Department applicant review and daily transaction review.

Sec. 13-7-4. Appeal.

Appeal from a decision to deny an application for, or revoke or suspend a license obtained pursuant to this Article VII shall be made in accordance with Section 13-1-13 of the city code.

Sec. 13-7-5. Disciplinary Action; Grounds.

A license issued pursuant to this Article VII may be suspended or revoked on the grounds that the licensee, his agent or employee, or any person connected or associated with the licensee or his/her licensed business as a partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the licensee or the licensed business has:

1. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a license related to the licensed business, or in any report or record required to be filed; or
2. Violated any provision of this Article VII, or of Chapter 16 of the city code, or of any statute relating to the licensed business; or
3. Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting the licensed business; or
4. Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of the licensed business; or
5. Violated any local rule or regulation relating to the licensed business; or
6. Conducted the licensed business in a manner contrary to the peace, health, safety, and general welfare or the public; or
7. Failed to comply with the regulations of the City of Woodland.

Sec. 13-7-6. Revocation Without Hearing Upon Conviction.

If any person holding a license obtained pursuant to this Article VII is convicted in any court for violating any law related to or arising from his/her business operation as a licensed pawnbroker, recycler, junk or secondhand dealer, the City may revoke the license forthwith without any further action thereon other than to give notice of revocation to the licensee.

6. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Woodland.

PASSED AND ADOPTED by the City Council of the City of Woodland this ____ day of December, 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Flory, Mayor

ATTEST:

Susan L. Vannucci, City Clerk

APPROVED AS TO FORM:

Ann M. Siprelle, City Attorney