



# City of Woodland

## REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR  
AND CITY COUNCIL

DATE: June 10, 2008

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

### **Report in Brief**

On January 8, 2008 the City Council adopted Ordinance #1490 which amended Chapter 16 of the Code of the City Of Woodland related to Pawnbrokers, Junk, Secondhand Dealers and Recyclers. The adopted amendments imposed specific restrictions on businesses dealing in recycled precious metals intended to identify the seller of the materials, hold the material for a period of time, and make payment in check. The purpose behind these amendments was to thwart thieves from readily selling stolen precious metals, and the metals being co-mingled or resold before police could identify the stolen property. A lawsuit was filed by a local recycler and supported by a state association challenging the ordinance. On April 1, 2008, the California Court of Appeal, Fifth Appellate District ruling on a challenge of a similar ordinance enacted by Fresno County (See, *Randi Tosi, et al. v. County of Fresno, et al.* (2008).) held that the Fresno County Ordinance “impermissibly attempt[s] to govern the purchase and sale of scrap metal, a subject comprehensively regulated by state law.” This court decision invalidated the Fresno County ordinance. Based on the similar issues in the Fresno County Ordinance and the City of Woodland ordinance, and issues raised in the civil litigation, it seems likely the City of Woodland ordinance would also be invalid. Based on this analysis, staff believes it is appropriate to amend the City code to reflect the Fifth Appellate District decision.

Staff recommends that the City Council introduce Ordinance No. \_\_\_\_\_, amending Chapter 16 of the Code of the City of Woodland, repealing sections 16.3 through 16.8, Section 16.10, and 16.11, and amending Section 16.12.

### **Background**

The amendments that were adopted by Ordinance #1490 were introduced to the City Council on December 18, 2007. In the staff report that accompanied the item, the problem of precious metal thefts occurring in Woodland and throughout the region was highlighted. The increasing demand from international markets for precious metals pushed up the salvage value of precious metals such

as copper and aluminum, and in turn has pushed up the volume of these metals targeted by thieves. In November 2007 three burglaries occurred in local businesses where the suspects stole more than \$60,000.00 worth of copper wire. Four (4) subjects were later caught stripping the stolen copper wire preparing to sell it at a recycler. In 2007, Woodland businesses experienced a loss of more than \$83,000.00 from the theft of precious metals. Though a few arrests are made, many thieves go undetected due to the inability of law enforcement to identify and track thieves when they sell stolen property to secondhand junk dealers and recyclers.

In 2007, the state legislature considered Assembly Bill 844, authored by Assemblymember Berryhill, which was intended to stop thieves from converting stolen scrap metal into quick cash. The bill is being held by the Senate Committee on Business, Professions and Economic Development. Assemblymember Berryhill encouraged each county and/or city to adopt a local ordinance which would implement the protections contained in AB 844. The earlier comprehensive redraft of Chapter 16 and parts of Chapter 13, which was adopted by the City Council on January 8, 2008, was done to mirror the requirements of SB 844.

After the adoption of Ordinance #1490, Police Department staff worked with the two recyclers located in Woodland to implement the new provisions. One of the businesses, Recycling Solutions, incorporated the new provisions of Chapter 16 into business practices. After a lawsuit was filed against the amendments and the City agreed to suspend enforcement of the ordinance pending court action, Recycling Solutions continued to voluntarily comply with the amendments, in particular, the reporting requirements. With the cooperation of Recycling Solutions, Woodland Police identified three individuals that had brought stolen property into the business. Arrest warrants were sought for these three individuals. Recycling Solutions has volunteered to continue to adhere to the provisions requiring holding periods, subject identification, transaction reporting, and payment by check on suspicious items. The other recycler did not implement the new reporting requirements or other provisions of the adopted amendments. No arrests or leads have culminated from "business reported" activity. However the company has been responsive to inquiries concerning suspicious transactions when contacted by law enforcement.

### **Discussion**

The City Attorney's Office handled the lawsuit against the amendments. The City Attorney reported that on April 1, 2008 the Fifth Appellate District of the California Court of Appeal handed down its decision in the case involving the Fresno County ordinance. As a result, the City Attorney recommends that the City of Woodland repeal the amendments to Chapter 16 that were similar to issues discussed in the Court's decision.

Subsequent to the April 1, 2008 Appellate Court decision regarding Fresno County's ordinance, Assemblymember Berryhill recently offered amendments to AB 844 which will implement the requirements that proved so successful in Woodland. Specifically, AB 844 would require: (a) recyclers to pay by check with a 3-day hold; (b) take photos of materials; and (c) local ordinances would be protected. A competing bill proposed by recyclers, SB 691, would exempt persons who recycle 5 or more times a month from the provisions of the bill. Staff is actively tracking both bills.

In light of the Appellate Court decision it would seem prudent for the City of Woodland to repeal the previous amendments to Chapter 16. In association with the tracking of AB 844, Mayor Flory sent a letter stating support for the proposed legislation on May 28.

**Fiscal Impact**

Enacting these amendments will have no fiscal impact on the City. The amendments reduce the additional effort by the City to regulate and monitor specified daily businesses transactions in scrap metal recycling.

**Public Contact**

Affected businesses in the City have been informed regarding this item. In addition the public has been informed of this item through posting of the Council Agenda.

**Alternative Courses of Action**

1. Introduce Ordinance No. \_\_\_\_\_, amending Chapter 16 of the Code of the City of Woodland, repealing sections 16.3 through 16.8, Section 16.10, and 16.11, and amending Section 16.12.
2. Cease consideration of the proposed action and allow Ordinance #1490 to be reviewed by a court of local jurisdiction for a ruling on the validity of the City of Woodland ordinance.

**Recommendation for Action**

Staff recommends that the City Council approve Alternative 1.

Prepared by: David Ingman  
Lieutenant, Investigation Div.

Reviewed by: Carey Sullivan  
Chief of Police

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Mark G. Deven  
City Manager

Attachment: Proposed Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND  
AMENDING CHAPTER 16 OF THE WOODLAND MUNICIPAL CODE RELATING TO  
RECYCLERS AND JUNK 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 special considerations and restrictions to the business operations of recyclers and junk dealers.
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.** Section 16.12 of the City of Woodland Municipal Code are hereby amended in their entirety to read as follows:

**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. 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.

4. Repeal. Sections 16.3 through 16.8, Section 16.10, and Section 16.11 of the City of Woodland Municipal Code are hereby repealed.

5. 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 \_\_\_\_\_, 2008, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
David Flory, Mayor

ATTEST:

\_\_\_\_\_  
Susan L. Vannucci, City Clerk

APPROVED AS TO FORM:

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Ann M. Siprelle, City Attorney