

LEGISLATIVE DIGEST

[Police Code - Amendments to Junk Dealer and Junk Gatherer Permit Process]

Ordinance amending the San Francisco Police Code Sections 974.1, 974.2, 974.4, 974.5, 974.6, 974.8, 974.9, 974.10-1, 974.11, 974.14-1, 974.14-2, 974.21, 974.22, 895, 2.26, and 2.27 and repealing Sections 974.10-2, 974.23, and 896 through 898 to: 1) cause all existing junk dealer and junk gatherer permits to expire as of December 31, 2012; 2) establish a new, annual permit for junk dealers; 3) provide for permit suspensions and revocations to remain in effect during any administrative appeal; 4) amend the permit enforcement process; 5) require that junk dealers purchase goods only from licensed contractors and permitted junk dealers; and 6) update fees; and making environmental findings.

Existing Law

Under existing municipal law, there are two different permitting schemes related to junk dealing in San Francisco: the junk dealer permitting process and the junk gathering permitting process. Under municipal law, junk dealers must secure a permit from the Chief of Police to operate as a junk dealer within the City and County of San Francisco. In contrast, the permitting process for junk gatherers is not clearly delineated in the municipal code. State law defines junk dealers broadly, encompassing the local definitions of both junk dealer and junk gatherer.

Amendments to Current Law

This legislation amends the Police Code to ensure that the local permitting scheme regarding junk dealers and gatherers is in harmony with state law. The amendments eliminate the definition of junk gatherer, subsuming it within the definition of junk dealer and clarify substantive and procedural permitting requirements for "junk dealers."

Background Information

San Francisco is seeing a significant amount of metal theft from residences, businesses, municipal properties, transportation systems, and utility companies. That theft causes thousands of dollars in losses and can interrupt the delivery of crucial utility services and the operations of transit systems.

In San Francisco, metal is collected, bought, sold, and otherwise disposed of by "junk dealers." Those junk dealers are regulated locally by a permitting process detailed in the Police Code in conjunction with other state law definitions and regulations codified in California Business and Professions Code section 21600 *et seq.*, a subset of which are included below.

California Business and Professions Code section 21601 defines a junk dealer as anyone "engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer."

California Business and Professions Code section 21600 defines junk as "any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof."

California Business and Professions Code section 21602 defines junk yard as including "any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept."

As illustrated from the definitions above, the state law definition of "junk dealer" includes the activities and functions of "junk gatherers." This legislation resolves the statutory differences by bringing all who buy, sell, collect or otherwise dispose of junk under the umbrella of "junk dealer." For that reason, the Police Code provisions regarding junk gatherers are proposed to be repealed.

In addition to eliminating the definitional ambiguities, this legislation changes the permitting and enforcement procedures to conform to similar permitting schemes such as those for Commercial Parking Permits and Tow Car Firms.

Lastly, this legislation restricts the individuals and businesses with which junk dealers do business as a way to attempt to combat the trafficking of stolen metal.

Clarifying the permitting process and restricting the individuals and businesses with which junk dealers do business should harmonize local and state laws and mitigate nuisance and crime.