

REVISED LEGISLATIVE DIGEST

(12/3/2012, Amended in Committee)

[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, 974.8, 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 974.5, 974.6, 974.10-2, 974.23 and 896 through 898 to: 1) cause all existing junk dealer and junk gatherer permits to expire as of June 30, 2013~~December 31, 2012~~; 2) establish an annual permit for junk dealers with junk yards and a two-year permit for other junk dealers; 3) provide for permit suspensions and revocations to remain in effect during any administrative appeal; 4) amend the permit enforcement process; and 5) 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 establishes operating standards for junk dealers yet maintain no state licensing or permitting process, leaving those functions to local governments.

Amendments to Current Law

This legislation amends the Police Code to make San Francisco's local permitting scheme regarding junk dealers and gatherers consistent with state law. The amendments eliminate the definition of junk gatherer, subsuming it within the definition of junk dealer and clarify procedural permitting requirements for "junk dealers." Under the amendments permits of all junk dealers will expire as of June 30, 2013 and all junk dealers seeking to operate after that date will have to obtain a new permit under these procedures.

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, "junk dealers" collect, buy, sell, and otherwise dispose of metal" Those junk dealers are regulated locally by a permitting process detailed in the Police Code in conjunction with 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 brings our local junk dealer and junk gatherer definitions in harmony with state law by bringing all who buy, sell, collect or otherwise dispose of junk under the umbrella of "junk dealer." For that reason, this legislation would repeal Police Code provisions regarding junk gatherers.

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

Lastly, this legislation removes language that merely duplicates state law.

Clarifying the permitting process and eliminating surplusage and duplication in the legislation should harmonize local and state laws and mitigate nuisance and crime.