



City of Omaha
Jean Stothert, Mayor

Law Department

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Honorable President

and Members of the City Council,

Transmitted herewith is an Ordinance requested by Council Vice President Vinny Palermo to amend various sections of Chapter 30 of the Omaha Municipal Code dealing with secondhand and salvage dealers. The intent of these ordinance amendments is to deter property crime and thefts and increase arrests relating to the recent spike in the theft of catalytic converters. The "regulated metals property" will be monitored similarly to other stolen property through the Omaha Police Department's Leads Online electronic tracking system.

Your favorable consideration of this Ordinance is respectfully requested.

Respectfully submitted,

Michelle Peters
Deputy City Attorney

ORDINANCE NO. _____

AN ORDINANCE to amend Sections 30-21, 30-31; 30-81, 30-91 and 30-99; to add new Sections 30-38 and 30-39; of the Omaha Municipal Code; to amend the system whereby the Police Department can track stolen goods, specifically catalytic converters and to regulate sellers, second-hand and salvage dealers in order to reduce theft of certain items; and to provide the effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That Sec. 30-21 of the Omaha Municipal Code is hereby amended to read as follows:

Sec. 30-21. – Definitions.

(a) "Secondhand goods dealer" shall mean any person who regularly operates, keeps or manages any secondhand goods store and either:

(1) Purchases regulated property within the City of Omaha; or

(2) Offers for sale regulated property within the City of Omaha.

(b) "Secondhand goods store" shall mean any store, room, building, or enclosure where secondhand articles or regulated property are regularly bought, sold, or traded for profit or pleasure. For purposes of this article, electronic repair shops are included in this definition.

(c) "Regulated property" shall mean any of the following property that is used second hand:

(1) Any precious metal or gem that is valued for its character, rarity, beauty, or quality, including, but not limited to, gold, silver, platinum, diamonds, rubies, emeralds, sapphires, pearls and any other such metals or gems, stones, or imitation thereof whether as a separate item or in combination as a piece of jewelry;

(2) Jewelry;

(3) Watches;

(4) Items made of or containing sterling silver;

(5) Firearms;

(6) Sporting goods;

(7) Bicycles;

(8) Electronics;

(9) Video game systems, video game equipment and video games;

(10) Musical instruments; and

(11) Coins.

(d) "Regulated property" shall not include items purchased or handled by the following establishments:

(1) Charitable organizations that accept donations from individuals that are later sold to benefit the charitable organization:

(2) Antique dealers or auction houses, including on-line vendors;

(3) Places of residence

(4) Used furniture stores;

(5) Used clothing stores;

(6) Used book stores;

(7) Flea markets;

(8) Traveling venues;

(9) Vehicle Service Centers.

(e) "Regulated metals property" shall mean a catalytic converter in any form that has been disassembled, separated, detached, or uninstalled from a motor vehicle.

Section 2. That Section 30-31 of the Omaha Municipal Code is hereby amended to read

as follows:

Sec. 30-31. Record of purchases – Required.

(a) Any persons who shall engage in business as dealers in secondhand goods shall keep a book, ledger, computer, or other record of all purchases by that secondhand dealer of any regulated property, including regulated metals property. Such record shall be legibly written or typed in the English language, and shall include:

(1) An accurate, detailed description of the regulated property, or regulated metals property purchased including serial number, if available;

(2) The amount of money paid per item ~~thereon or therefor~~;

(i) Any payment for regulated metals property shall be by check, and the check shall be sent by regular United States mail, postage prepaid to the seller.

(3) The date and time of purchase;

(4) The name, address, date of birth, and driver's license number or other identification of public record of the person selling the regulated property or the regulated metals property.

(5) The name of the employee conducting the transaction.

(6) A digital color image or copy of the work order, receipt, invoice or title showing both the name of the person from whom the regulated metals property was obtained and the make, model, and vehicle identification number of the vehicle from which the regulated metals property was removed or a form obtained from the Chief of Police showing that the seller is the owner, and the make, model, and vehicle identification number of the vehicle from which the regulated metals property was removed.

(7) A digital color image of the permit issued by the Chief of Police as set forth in this Article.

(b) The records required in this section, having all of the required information, shall be created and delivered to the chief of police every day before the hour of 12:00 noon in a form required by this article, including a list of all regulated property and regulated metals property received, deposited or purchased during the previous day, together with the time received or purchased, and a description of the person or person by whom left, or from who the same were purchased; provided the report herein required shall not apply to Sundays, but the report of Monday of each week shall cover the business transactions of the Saturday previous, and also shall take place on said last-mentioned day; provided that no person shall be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business or of goods purchased at open sale from any bankrupt stock or from any other person doing business and having an established place of business, but such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase, and must be shown to the chief of police, or some person under his direction, when demanded.

(c) In the event the city enters into a contract for an electronic reporting system of transactions for secondhand dealers, the records required by this section having all of the information required by this article shall be created and delivered to the chief of police before the close of business that day. In the event the electronic reporting system is unavailable to record a transaction for any reason, the secondhand dealer is required to make a complete written report of the transaction which written report shall be entered into the electronic system as soon as practicable.

Section 3: That a new Sec. 30-38 of the Omaha Municipal Code is hereby added to read

as follows:

Sec. 30-38 Regulated metals property; Permit Required; Penalty

(a) It shall be unlawful for any person to possess, accept, process, store, hold, keep, receive, reuse, collect, deal in, buy or sell regulated metals property, without first having obtained a written permit from the Chief of Police or a Secondhand dealer or Salvage Dealer permit from the Planning Department as set forth in this Chapter. Any person found in possession of regulated metals property by a city official or law enforcement personnel without such permit may demonstrate a legitimate and temporary reason for such possession by showing either:

(1) a letter of permission from the Chief of Police to temporarily possess regulated metals property that includes a law enforcement case number or property identification number; or

(2) a bill of sale, purchase receipt, work order, or vehicle title that includes the vehicle identification number of the source vehicle.

(3) failure to comply with the foregoing provisions shall result in the immediate confiscation of the regulated metals property by law enforcement until such time as legal ownership may be determined or any criminal charges are adjudicated.

(b) City officials or law enforcement personnel disposing of lost, found, or stolen regulated metals property are exempt from the requirements of this section.

(c) Any person found to be in violation of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Omaha Municipal Code section 1-10.

Section 4. That a new Section 30-39 of the Omaha Municipal Code is hereby added to

read as follows:

Sec. 30-39. Regulated metals property permit; Application and Investigation.

(a) Any person applying for a regulated metals property permit shall complete forms provided by the Chief of Police supplying at a minimum, the following information:

(1) The name and address of the applicant;

(2) The applicants mailing address;

(3) A complete set of applicant's fingerprints;

(4) Any other such pertinent information as requested by the Chief of Police.

(b) No permit shall be issued under this section to any person who has been convicted of any theft or related offense within the last five years in this state or any other jurisdiction, including, but not limited to the following offenses: Burglary (Neb. Rev. Stat. 28-507); Possession of burglar's tools (Neb. Rev. Stat. 28-508); Theft by unlawful taking (Neb. Rev. Stat. 28-511); Theft by shoplifting (Neb. Rev. Stat. 28-511.01); Theft by deception (Neb. Rev. Stat. 28-512); Theft by extortion (Neb. Rev.

Stat. 28-513); Theft of property lost, mislaid or delivered by mistake (Neb. Rev. Stat. 28-514); Theft of services (Neb. Rev. Stat. 28-515); Unauthorized use of a propelled vehicle (Neb. Rev. Stat. 28-516); Theft by receiving stolen property (Neb. Rev. Stat. 28-517); Theft by unlawful taking (OMC 20-151); Receiving stolen property (OMC 20-152); Unlawful taking by fraud (OMC 20-153); and Unlawful occupancy (OMC 20-157).

(c) No permit shall be issued to any individual under the age of 18.

(d) The annual fee for this application and permit shall be \$10.

(e) This permit shall be valid for one calendar year and shall expire on December 31 of each year.

(f) This permit shall be automatically cancelled by the Chief of Police if the permit holder is convicted of any theft offense as defined herein prior to the expiration of the permit.

Section 5. That Sec. 30-81 of the Omaha Municipal Code is hereby amended to read as follows:

Sec. 30-81. Permit required; definitions.

(a) It shall be unlawful for any person to act or operate as a salvage dealer without first obtaining a salvage dealer's permit from the permits and inspections division as provided in this article.

(b) "Salvage dealer" shall be defined as any person who deals or engages in the business of any of the following activities:

(1) The dismantling, demolition, or salvage of any automotive vehicle or over-the-road trailer device or parts thereof.

(2) The storage, recycling, purchase or sale of used vehicle parts, including regulated metals property.

(3) The storage, recycling, purchase or sale of any of the following used items: ferrous or nonferrous metal items, plastic items, paper products, building materials, junk, rope, bottles, containers, or lumber.

(c) Notwithstanding the rest of this section, the term "salvage dealer" shall not include a person who operates premises used only to temporarily store and protect automotive vehicles or trailers that have been towed from the scene of a crime, traffic violation, accident, breakdown, or similar incident at the direction of a law enforcement officer or the owner or operator of the vehicle, until the vehicle is reclaimed or disposed of by the owner. Notwithstanding the rest of this section, the term "salvage dealer" shall not include recycling centers utilized by the general public for the purposes of dropping off recyclable materials such as aluminum cans, newspaper, plastic, or jars and bottles. Notwithstanding the rest of this section, the term "salvage dealer" shall not include a person who operates premises used to recycle concrete or reinforced

concrete.

(d) The term "property," as used in this article, shall mean the real property upon which the salvage dealer conducts or proposes to conduct salvage dealer activities.

(e) The term "high value salvage material" shall mean any copper, bronze, brass and aluminum, whether scrap metal or recyclable metal, with the exception of aluminum cans.

(f) The term "regulated metals property" shall mean a catalytic converter in any form that has been disassembled, separated, detached, or uninstalled from a motor vehicle.

Section 6. That Section 30-91 of the Omaha Municipal Code is hereby amended to read as follows:

Sec. 30-91. Record and report of purchases - Required.

(a) Any person who shall engage in the salvage dealer's business shall keep a book, ledger, computer, or other record of all purchases by that salvage dealer of any used, wrecked or abandoned automobiles or major parts or accessories readily identifiable by vehicle identification number or other distinctive markings or characteristics, including regulated metals property. Such record shall be legibly written or typed, shall be in English language, and shall contain the following information as to each purchase:

(1) An accurate, detailed description of the vehicle or part, including regulated metals property;

(2) The quantity purchased;

(3) The amount paid per item therefor;

(i) Any payment for regulated metals property shall be by check, and the check shall be sent by regular United States mail, postage prepaid to the seller.

(4) The date and time of purchase;

(5) The name, address, date of birth, and driver's license number or other identification of the public record of the person selling such automobiles, parts, or accessories, including regulated metals property.

Notwithstanding this subsection, such record need not be kept for any purchase for which the purchaser receives and holds a certificate of title or other legal instrument evidencing title to the purchaser.

(b) In a similar but separate book, ledger, computer or other record, any person who shall engage in a salvage dealer's business shall maintain a record of all ferrous and nonferrous metal, which is purchased. The record shall contain:

(1) The price paid for the metal;

(2) Date and time of the purchase;

(3) The name, address, date of birth, and driver's license number or other identification of public record of the person selling such metal; and

(4) The vehicle license number of the vehicle which delivered the metal.

(c) The records required by this section, having all of the required information, shall be created and delivered to the Chief of Police every day before the hour of 12:00 noon in a form required by this article, including a list of all personal property or other valuable things received or deposited, or purchased during the previous day, together with the time received or purchased, and a description of the person or persons by whom left, or from whom the same were purchased; provided, the report herein required shall not apply to Sundays, but the report of Monday of each week shall cover the business transactions of the Saturday previous, and also the Sunday previous if any such transactions shall take place on said last-mentioned day; provided that no person shall be required to furnish such description of any property purchased from manufacturers or wholesale dealers having an established place of business, but such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase, and must be shown to the Chief of police, or some person under his direction, when demanded.

(d) This section shall not apply to metal beverage or food cans or to city contracted or sponsored recycling or neighborhood cleanup programs.

(e) In the event the city enters into a contract for an electronic reporting system of transactions for salvage dealers, the records required by this section having all of the information required by this article shall be created and delivered to the chief of police before the close of business that day. In the event that the electronic reporting system is unavailable to record a transaction for any reason, the salvage dealer is required to make a complete written report of the transaction which written report shall be entered into the electronic system as soon as practicable.

Section 7. That Section 30-99 of the Omaha Municipal Code is hereby amended to read

as follows:

Sec. 30-99. Collection of certain information.

In addition to the requirements of section 30-91, at the time of purchase, the salvage dealer shall use the required electronic reporting system to collect the following:

(a) A digital photograph of the purchased item;

(b) A digital photograph of the seller;

(c) A digital signature of the seller;

(d) A digital scan of the seller's right index finger; if the index finger is missing, the fingerprint shall be taken from the left index finger. The print shall be clear and legible;

(e) A photographic or scanned image of the I.D. card of the seller, sufficiently clear to allow the information of the I.D. to be read;

(f) A digital color image or copy of the work order, receipt, invoice or title showing both the name of the person from whom the regulated metals property was obtained and the make, model, and vehicle identification number of the vehicle from which the regulated metals property was removed or a form obtained from the Chief of Police showing that the seller is the owner, and the make, model, and vehicle identification number of the vehicle from which the regulated metals property was removed.

(g) A digital color image of the permit issued by the Chief of Police as set forth in this Article.

Section 8. That this Ordinance shall be in full force and take effect 15 days after approval of this ordinance.

INTRODUCED BY COUNCILMEMBER

APPROVED BY:

MAYOR OF THE CITY OF OMAHA DATE

PASSED _____

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

Michelle Peters 2/4/22
DEPUTY CITY ATTORNEY DATE