

FILE NO. 050178

ORDINANCE NO. 69-05

1 [Regulations for Junk Dealers.]
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3 **Ordinance amending San Francisco Municipal (Police) Code Part II, Chapter VII**
4 **Sections 974.1, 974.4, ~~974.10~~, 974.11, 974.12, 974.14, 974.15, 974.21 and 974.22, and by**
5 **renumbering and amending 974.10-1, to align definitions to those of the California**
6 **Business and Professions Code and to define "buy book", require that a permit**
7 **applicant include additional information in the permit application, including a**
8 **requirement that a permit holder inform the Police Department if the business will**
9 **engage in welding, use of a propane tank, or cutting torches operated by compressed**
10 **gasses and provide copies of permits for those activities; expand the types of**
11 **information that the Chief of Police may consider in determining whether to grant the**
12 **permit including convictions for fraud and crimes related to the environment, permit**
13 **revocations from other government agencies, and civil penalties imposed related to the**
14 **operation of a junk dealer or hazardous material or the environment; provide examples**
15 **of types of "cause" that would justify a revocation of the permit and clarify that the**
16 **standard of proof is a preponderance of the evidence; clarify the prohibition of**
17 **operating at another location not listed on the permit; set forth the rules under which**
18 **the permit holder operates, including a requirement that the permit holder keep all**
19 **items purchased in the same condition for five days, allow non-peace officer who have**
20 **the authority to enforce rules and regulations on the premises to inspect, maintain a**
21 **record of all purchases that includes requiring the seller to produce a valid form of**
22 **identification for each transaction, maintain the "buy book" in serial-number order for a**
23 **period of three years and to allow inspection of the book, maintain the sidewalk and**
24 **other areas adjacent to the premises clear of obstacles, trash and debris, and prevent**
25 **loitering; clarify that a violation of these provisions is either an infraction or a**

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1 misdemeanor; and grant the Chief of Police authority to temporarily suspend operation
2 of the business if it presents an immediate threat to the public health and safety;
3 adding Sections 974.10-2 and 974.14-2 to require the permit holder to provide current
4 information to the Chief on an annual basis and to require the Chief to make a
5 determination of whether to move to revoke the permit; and to prohibit the junk dealer
6 from making purchases (1) from anyone who does not have a valid identification, (2) of
7 parts that contain hazardous materials; and (3) of goods that may be stolen; repealing
8 Sections 974.18, 974.19 and 974.24 to repeal the holding period exemption for
9 purchases from other junk dealers; repeal the prior requirements for buy books, and
10 repeal the provision regarding pre-existing permits.

11 Note: Additions are single-underline italics Times New Roman;
12 deletions are ~~strikethrough italics Times New Roman~~.
13 Board amendment additions are double underlined.
14 Board amendment deletions are ~~strikethrough-normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The San Francisco Police Code is hereby amended by amending Sections
16 974.1 and 974.4 to read as follows:

17 Sec. 974.1. DEFINITIONS.

18 (a) ~~“Junk” is any and all secondhand metal, both ferrous and nonferrous, of any nature~~
19 ~~whatsoever, including used machinery, tools and implements, or any portion thereof, but does not~~
20 ~~include scrap iron, household generated waste, or aluminum beverage containers, as defined in~~
21 ~~Chapter 2 (commencing with Section 14502) of Division 12.1 of the California Public Resources Code.~~
22 Except as otherwise specified in this section, the terms used in this Article shall have the same meaning
23 as those terms are defined in the California Business and Professions Code, Chapter 9, Article 3,
24 Section 21600 et seq., including as those sections are hereafter amended.
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1 (b) ~~“Junkyard” is any yard, plot, space, enclosure or building where junk, as defined~~
2 ~~herein, is collected, stored, gathered or kept.~~

3 ~~(e)(b) “Buy Book” is a form to be filled out pursuant to the provisions of Section 974.19 of~~
4 ~~this Article, and maintained by the junk dealer, that must contain all of the following information:~~

5 (i) The place and date of each sale or purchase of junk.

6 (ii) The name, valid driver's license number and state of issue or valid California-issued
7 identification card number of the person buying or selling junk, and vehicle license number
8 including the state of issue of any motor vehicle used in transporting the junk to the junk
9 dealer's or recycler's place of business.

10 (iii) The name and address of each person to whom junk is sold or disposed of, and the
11 license number of any motor vehicle used in transporting the junk from the junk dealer's or
12 recycler's place of business.

13 (iv) A description of the item or items of junk purchased or sold, including the item type and
14 quantity, model number and/or model name, and identification number, if visible.

15 (v) A statement indicating either that the seller of the junk is the owner of it, or the name of
16 the person he or she obtained it from, as shown on a signed transfer document.

17 (vi) If the state legislature amends California Business and Professions Code Section 21606,
18 that subsequent amendment shall be incorporated herein.

19 (c) Hazardous materials shall be those materials defined in San Francisco Health Code
20 Article 21 Division 1 Section 1102.

21 SEC. 974.4. CONTENTS OF APPLICATION.

22 The application for a permit to engage in, conduct or carry on a business of junk dealer
23 shall set forth the proposed place of business and facilities therefor, including whether or not the
24 junk dealer will engage in welding, use of a propane tank, or cutting torches operated by compressed
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1 gasses, and the name and address of each applicant, and such other information as the Chief
2 of Police deems necessary to investigate the applicant and ~~his~~ the applicant's proposed place
3 of business.

4 Section 2. The San Francisco Police Code is hereby amended by renumber and amending
5 Section 974.10 and adding Sections 974.10-2 to read as follows:

6 SEC. 974.10-1 ISSUANCE OF JUNK DEALERS PERMIT.

7 The Chief of Police may issue a permit within 14 days after the date of hearing if ~~he~~ the
8 Chief finds:

9 (a) That the proposed premises to be used by the applicant as a junk yard conforms
10 to all applicable laws, including, but not limited to, the Building, Health, Fire, City Planning and
11 Housing Codes of the City and County of San Francisco;

12 (b) That the applicant has appropriate permits for welding, use of propane tanks, or cutting
13 torches operated by compressed gasses if the permit holder will use such items in the business;

14 ~~(b)(c)~~ That the applicant has not been convicted of a crime involving the possession or
15 theft of property that amounts to a felony, fraud, hazardous materials or the environment, or crimes
16 related to the operation of a junk dealer provided, however, the Chief of Police shall not take into
17 account such conviction if the applicant suffered such conviction at least five ~~three~~ years prior
18 to the date of the application and at least five ~~three~~ years has elapsed since the applicant has
19 been free of any disability resulting from said conviction and the applicant has suffered no
20 subsequent convictions for a felony or misdemeanor offense relating to theft or the
21 possession of stolen property, fraud, crimes related to hazardous materials or the environment;

22 ~~(e)(d)~~ That the proposed location of the business is a suitable place to carry on the
23 business of junk dealer. In making such finding, the Chief of Police may take into
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1 consideration the effect of the issuance of the permit upon the surrounding property and the
2 inhabitants thereof;

3 ~~(d)~~(e) That the applicant has not had revoked any permit or license issued by the State
4 of California or the City and County of San Francisco or other government agency to engage in a
5 business or profession within the State of California because of a violation of law or because
6 of violation of regulations promulgated by the regulating agency having control or jurisdiction
7 over the license or permit; further, the Chief of Police shall not consider any such revocation if
8 such revocation occurred at least five ~~three~~ years prior to the date of the application.

9 (f) That the applicant has not had civil penalties imposed by a court or other government
10 agency related to the operation of a junk dealer or hazardous materials or the environment within the
11 past five years prior to the date of application. .

12 ~~Section 2. The San Francisco Police Code is hereby amended by adding Sections 974.10-2~~
13 ~~to read as follows:~~

14 SEC. 974.10-2 ANNUAL RENEWAL

15 (a) Every junk dealer shall provide to the Chief of Police, by the anniversary date of the
16 issuance of the permit, information regarding changes in the business or status of the permit holder.

17 Such information shall include:

18 (i) Information regarding all notices of violation issued by any governmental entity, including
19 but not limited to the San Francisco Department of Public Health, Building Inspection, Fire
20 Department, or City Planning, to the business, property owner, permit holder, or employees, during the
21 past year.

22 (ii) Information detailing corrective actions taken to address previous notices of violation or
23 other conditions placed upon the business.

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1 (iii) Information regarding criminal citations issued to the business, property owner, permit
2 holder or employees related to the operation of the business, including citations regarding failure to
3 comply with state or local law applicable to junk dealers, or for receiving stolen property.

4 (iv) Any change in information regarding the permit holder or ownership of the business,
5 including change of address, change of ownership or change of partnership or corporate status.

6 (v) If the permit holder welds, uses propane tanks, or cutting torches operated by compressed
7 gasses on the premises or as part of its business, proof of valid permits for such use.

8 (b) The Police Department shall within 30 days of the receipt of the annual renewal
9 information review the information and determine whether or not a revocation hearing is warranted.
10 The Police Department should inform the permit holder of its decision in writing by first class mail to
11 the address provided in the application within 30 days of the receipt of such information. Should the
12 Department determine that a revocation hearing is warranted, the Department shall follow the
13 procedure set forth in this article for revocation hearings. Failure to inform the permit holder of the
14 decision within 30 days does not preclude the Department from initiating a revocation hearing.

15 Section 3. The San Francisco Police Code is hereby amended by amending Sections 974.11,
16 974.12 and 974.14 to read as follows:

17 SEC. 974.11. SUSPENSION OR REVOCATION OF PERMIT.

18 Any permit to a junk dealer may be suspended or revoked by the Chief of Police after a
19 hearing for cause.

20 (a) Cause may include:

21 (i) ~~or in any case where the junk dealer has violated any of the provisions of this Article, or~~
22 ~~where the employees of the junk dealer have violated any of the provisions of this Article in~~
23 ~~the permittee's place of business and the permittee has actual or constructive knowledge of~~

1 ~~the violation.~~ Violations of any of the provisions of this Article, including violations by
2 employees where the permit holder knew or should have known of the violation.

3 (ii) ~~, or in any case where the permittee refuses~~ Refusal to permit any peace officer of the
4 State of California or the United States or other person with authority to enforce
5 applicable rules and regulations to inspect the premises of the junk dealer, the junk
6 stored thereon or the operations therein.

7 (iii) ~~or where the permittee is in violation of Section 21652 of the Business and Professions~~
8 Code of the State of California. Violations of the Business and Professions Code of the
9 State of California relating to the operations of a junk dealer.

10 (iv) The premises are in violation of the San Francisco Municipal Code, including but not
11 limited to the building, health, fire, city planning and/or police codes.

12 (v) Failure to maintain buy books in the manner required by this Article, including failure to
13 completely fill out the required form.

14 (vi) Use of welding equipment, propane tanks, or cutting torches operated by compressed
15 gasses without valid permits.

16 (b) The standard of proof at the hearing shall be preponderance of the evidence.

17 SEC. 974.12. NAME AND PLACE OF BUSINESS — CHANGE OF LOCATION.

18 No person granted a permit pursuant to the provisions of this Article shall operate
19 under another name or in any location not specified on the premises permit.

20 SEC. 974.14-1 OPERATION OF A JUNK DEALER.

21 Every junk dealer shall: ~~Every person is guilty of a misdemeanor who, while acting as a junk~~
22 ~~dealer, fails to~~

23 (a) Maintain on ~~his~~ the business premises all ~~nonferrous metals junk~~ purchased by the
24 permitted business junk dealer ~~except ferrous metals as set forth in (b) below, or aluminum cans,~~ in the

1 same condition as purchased for a period of five working days unless exempted pursuant to
2 this Article; however, this holding period may be extended for a period not to exceed 14
3 working days at the request of a peace officer but not beyond 14 working days without an
4 order of court;

5 (b) Maintain on his premises all ferrous metals purchased by the permitted business
6 ~~junk dealer~~ in the same condition as purchased that are fence material, pipe, chain, foundry
7 castings, cable or conduit or thin wall tubing for a period of three days unless exempted
8 pursuant to provisions of this Article;

9 (c) Allow any peace officer or other person with authority to enforce applicable rules and
10 laws of the United States, State of California or City and County of San Francisco to inspect the
11 premises and articles stored therein and operation thereof of the junk dealer at the junkyard;

12 (d) Maintain a "Buy Book" in the following manner:

13 (i) Fill out the form completely for every transaction;

14 (ii) Require the seller to present a valid form of identification at the time of each transaction
15 and record the information from that piece of identification at the time of the transaction;

16 (iii) Consecutively number each buy book;

17 (iv) Include in the buy book any and all voided tags;

18 (v) Maintain the buy book in serial number order for a period of three years from the last
19 date in the book;

20 (vi) Allow inspection by law enforcement agencies of the buy book immediately on request
21 without a subpoena.

22 (e) Post ~~his~~ the permit in a conspicuous place at the junk yard.

23 ~~(f) Contact the police department immediately if the junk dealer or any employee has~~
24 ~~reason to believe that a seller is attempting to sell stolen goods.~~

1 (f) Maintain the sidewalks, driveways and other areas adjacent to the premises clear of
2 obstacles, trash and debris.

3 (g) Take reasonable steps to ensure that its customers do not loiter in the areas adjacent to or
4 near the premises.

5 Section 4. The San Francisco Police Code is hereby amended by adding Sections 974.14-2
6 to read as follows:

7 Sec. 974.14-2 PROHIBITIONS ON PARTICULAR PURCHASES

8 No person holding a junk dealer permit shall purchase:

9 (a) Any item from a seller who does not present at the time of the transaction a valid driver's
10 license or other valid government-issued identification.

11 (b) Automotive or mechanical parts that contain hazardous materials.

12 (c) Goods where the permit holder or employee has or should have reason to believe that the
13 goods may be stolen.

14 Section 5. The San Francisco Police Code is hereby amended by amending Sections 974.15
15 to read as follows:

16 SEC. 974.15. HOLDING PERIOD EXEMPTIONS.

17 The Chief of Police or a peace officer, or officers designated by the Chief of Police,
18 may authorize a retention period of less than five working days for nonferrous metals or for
19 those ferrous metals mentioned in Section 974.14-1(b) purchased by the junk dealer after the
20 officer's investigation and by endorsing in writing on the junk dealer's copy of the "Buy Book"
21 form an authorization to release the metals hereinabove mentioned.

22 Section 6. The San Francisco Police Code is hereby amended by repealing Sections 974.18
23 and 974.19 as follows:

24 ~~SEC. 974.18. HOLDING PERIOD EXEMPTION (CONTINUED).~~

1 ~~———— A junk dealer shall not be required to retain nonferrous metals or those ferrous metals~~
2 ~~mentioned in Section 974.14(b) in the same condition as purchased or retain the said metals for a~~
3 ~~period of five working days if the junk dealer purchased the said metals from another permitted junk~~
4 ~~dealer and the selling junk dealer has either held the said metals for five working days or is exempt~~
5 ~~pursuant to the provisions of Sections 974.15, 974.16 or 974.17 of this Article. The purchasing junk~~
6 ~~dealer will record on his copy of the "Buy Book" form that said materials were purchased from a~~
7 ~~permitted junk dealer, the name and address of the junk dealer, the date purchased, and the fact that~~
8 ~~the metals hereinabove mentioned were either retained in their purchased condition for a period of five~~
9 ~~working days or are exempt from the retention period pursuant to the provisions of this Article. The~~
10 ~~selling junk dealer shall enter on his copy of the "Buy Book" form the name and address of the junk~~
11 ~~dealer to whom the scrap was sold and the date sold.~~

12 ~~SEC. 974.19. "BUY BOOK".~~

13 ~~———— Every purchase by the business or permit holder of ferrous or nonferrous metal shall be entered~~
14 ~~on a form, except for purchases described in Section 974.16 and Section 974.17 of this Article.~~

15 ~~———— (a) — The "Buy Book" form shall contain, but is not limited to, the following information:~~
16 ~~name and address of the seller; driver's license number or identification card of the seller, if any;~~
17 ~~vehicle license number of the vehicle used in transporting the metal, the date of purchase of the metal;~~
18 ~~the occupation of the seller, specific description of the metal purchased and signature of the seller. The~~
19 ~~"Buy Book" form shall have a serial number imprinted thereon.~~

20 ~~———— (b) — The junk dealer shall retain his copy of the "Buy Book form in serial number order for a~~
21 ~~period of two years. The junk dealer's copy of the "Buy Book" form shall be numbered, and include~~
22 ~~any and all voided tags, and kept available at any time for inspection by Law Enforcement Agencies~~
23 ~~without a subpoena~~

1 Section 7. The San Francisco Police Code is hereby amended by amending Sections 974.21
2 and 974.22 to read as follows:

3 SEC. 974.21. PENALTY.

4 (a) Violation of the provisions of this Article, with the exception of Section 974.14-I (f)
5 and (g), shall be punishable as a misdemeanor by a fine not to exceed \$500 \$1000 or by
6 imprisonment in the County Jail not to exceed six months or by both such fine and
7 imprisonment.

8 (b) Violation of Section 974.14-I (f) and (g) of this Article shall be punishable as
9 follows:

10 (1) First Conviction. Any person violating Section 974.14-I (f) or (g) shall be
11 guilty of an infraction. Upon conviction, the violator shall be punished by a fine of not to
12 exceed \$500 for each provision violated.

13 (2) Subsequent Convictions. In any accusatory pleading charging a violation of
14 Section Section 974.14-I (f) or (g), if the defendant has been previously convicted of a
15 violation of such Section(s), each such previous violation and conviction may be charged in
16 the accusatory pleading. Any person violating any provision of this section a second time
17 shall be guilty of an infraction or a misdemeanor, at the discretion of the prosecutor. A
18 violation which is an infraction is punishable by a fine of not less than \$500 or more than
19 \$1000 for each provision violated. A violation that is a misdemeanor is punishable by a fine of
20 not more than \$1000, or by imprisonment in the County Jail for not more than six months, or
21 by both such fine and imprisonment.

22 **SEC. 974.22. LIMIT ON SUSPENSION.**

23 Any permit issued pursuant to the provisions of this Article may be suspended by the Chief of
24 Police, for cause and after a notice of hearing, for a period not exceed thirty days. If the Chief of
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1 Police determines based on reasonable cause that the junk business poses an immediate threat to the
2 safety of the employees or the public, the Chief shall have the authority to immediately suspend the
3 permit. The Chief shall provide notice to the permit holder within one week of the suspension as to a
4 date for a revocation hearing. The revocation hearing must be held within 45 days of the suspension,
5 absent an agreement of the permit holder to voluntarily continue the hearing date and extend the
6 period of suspension

7 Section 8. The San Francisco Police Code is hereby amended by repealing Sections 974.24
8 as follows:

9 ~~SEC. 974.24. EXISTING PERMITS.~~

10 ~~Any permit existing on the effective date of this ordinance shall be continued until the next~~
11 ~~quarterly fee is due, at which time the Chief of Police shall take up the permit issued pursuant to~~
12 ~~Section 119 of Part III of the San Francisco Municipal Code and the Chief of Police shall substitute~~
13 ~~therefor a permit pursuant to the provisions of this Article after the permittee pays his license fee to the~~
14 ~~Tax Collector.~~

15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:

18 Margaret W. Baumgartner
19 Deputy City Attorney
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23
24
25



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 050178

Date Passed:

Ordinance amending San Francisco Municipal (Police) Code Part II, Chapter VII Sections 974.1, 974.4, 974.11, 974.12, 974.14, 974.15, 974.21 and 974.22, and by renumbering and amending 974.10-1, to align definitions to those of the California Business and Professions Code and to define "buy book", require that a permit applicant include additional information in the permit application, including a requirement that a permit holder inform the Police Department if the business will engage in welding, use of a propane tank, or cutting torches operated by compressed gasses and provide copies of permits for those activities; expand the types of information that the Chief of Police may consider in determining whether to grant the permit including convictions for fraud and crimes related to the environment, permit revocations from other government agencies, and civil penalties imposed related to the operation of a junk dealer or hazardous material or the environment; provide examples of types of "cause" that would justify a revocation of the permit and clarify that the standard of proof is a preponderance of the evidence; clarify the prohibition of operating at another location not listed on the permit; set forth the rules under which the permit holder operates, including a requirement that the permit holder keep all items purchased in the same condition for five days, allow non-peace officer who have the authority to enforce rules and regulations on the premises to inspect, maintain a record of all purchases that includes requiring the seller to produce a valid form of identification for each transaction, maintain the "buy book" in serial-number order for a period of three years and to allow inspection of the book, maintain the sidewalk and other areas adjacent to the premises clear of obstacles, trash and debris, and prevent loitering; clarify that a violation of these provisions is a misdemeanor; and grant the Chief of Police authority to temporarily suspend operation of the business if it presents an immediate threat to the public health and safety; adding Sections 974.10-2 and 974.14-2 to require the permit holder to provide current information to the Chief on an annual basis and to require the Chief to make a determination of whether to move to revoke the permit; and to prohibit the junk dealer from making purchases (1) from anyone who does not have a valid identification, (2) of parts that contain hazardous materials; and (3) of goods that may be stolen; repealing Sections 974.18, 974.19 and 974.24 to repeal the holding period exemption for purchases from other junk dealers; repeal the prior requirements for buy books, and repeal the provision regarding pre-existing permits.

March 29, 2005 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin

Excused: 2 - Daly, Sandoval

April 5, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval


Absent: 2 - Alioto-Pier, Daly

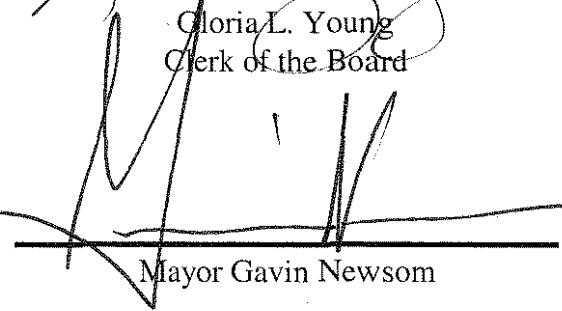
File No. 050178

I hereby certify that the foregoing Ordinance
was FINALLY PASSED on April 5, 2005 by
the Board of Supervisors of the City and
County of San Francisco.

4/15/2005

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Gavin Newsom