

ORDINANCE NO. 069, SERIES 2021

AN ORDINANCE AMENDING CHAPTER 123 OF THE LOUISVILLE METRO CODE OF ORDINANCES (“LMCO”) RELATING THE REGULATION OF PAWNBROKERS, JUNK, SCRAP, AND SECONDHAND DEALERS, AND SECONDARY METALS RECYCLERS (AMENDMENT BY SUBSTITUTION).

SPONSORED BY: COUNCIL MEMBERS FOWLER, MULVIHILL, FLOOD, FOX, AND PEDEN

WHEREAS, thefts of restricted metals, including catalytic converters, heating and air conditioning coils, and cemetery markers are increasing within Louisville/Jefferson County; and

WHEREAS, the Louisville Metro Code of Ordinances currently regulates the licensing and operation of businesses which deal in restricted metals and other used or secondhand regulated property; and

WHEREAS, increased penalties for violations of the Code in regard to buying and selling restricted metals and other regulated property can deter rising theft; and

WHEREAS, stricter limitations on buying and selling restricted metals and other regulated property can aid Metro Code Enforcement and Louisville Metro Police in detecting and enforcing violations; and

WHEREAS, technical amendments were needed to complete and clarify the Code revisions made in 2019, including defining secondhand dealers.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (“THE COUNCIL”) AS FOLLOWS:

SECTION I: The title of LMCO Chapter 123 is hereby amended as follows, with four subtitles appearing as specified herein:

CHAPTER 123: REGULATIONS GOVERNING PAWNBROKERS, JUNK, SCRAP, AND SECONDHAND DEALERS, AND SECONDARY METALS RECYCLERS.

Sections 123.07 to 123.14 should appear under the subtitle "**Pawnbrokers**"; and

Sections 123.21 to 123.25 should appear under the subtitle "**Secondhand Dealers**"; and

Sections 123.31 to 123.35 should appear under the subtitle "**Secondary Metals Recyclers**"; and

Sections 123.36 to 123.99 should appear under the subtitle "**Additional General Provisions**".

SECTION II: The following definitions in LMCO § 123.01 are being amended as follows:

For purposes of this ~~subchapter~~ chapter pertaining to ~~junk, secondhand and scrap dealers~~, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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~~**PURCHASE.** To obtain regulated property by paying money or giving other valuable consideration in a voluntary transaction. However, purchases under this subchapter do not include transactions in which regulated property is obtained by the loan of money or on condition of selling regulated property back to the individual from who it came at a stipulated price.~~

REGULATED PROPERTY. The following property, which is used or secondhand:

- (1) Ferrous, nonferrous and precious metals.
- (2) Gems including but not limited to any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such gems or stones, whether as a separate item or in combination as a piece of jewelry.
- (3) Jewelry containing metals or gems including, but not limited to, rings, necklaces, pendants, earrings, brooches, bracelets, or chains.
- (4) Watches, including, but not limited to, pocket watches, wrist watches, or stop watches.
- (5) Sterling silver, including, but not limited to, flatware, candleholders, coffee and tea sets, ornamental objects, champagne flutes, wineglasses, or serving pieces such as platters, bowls, trays, water pitchers, open bakery, ice buckets, shell dishes or salt and pepper shakers.

(6) Audio equipment and accessories, including, but not limited to, tape players, tape decks or players, compact/digital disc players and compact discs, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, clock radios, satellite radios, car stereos, car speakers, radar detectors, broadcasting equipment or citizen band radios/transceivers.

(7) Video and digital equipment and accessories, including, but not limited to, televisions, videotape or digital videodisc recorders, videotape or digital videodisc players, video cameras, video monitors, or video game consoles.

(8) Photographic and optical equipment and any accompanying bags, including, but not limited to, cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment, rifle scopes, spotting scopes, or electronic sighting equipment.

(9) Electrical office equipment, including, but not limited to, telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, modems, monitors, or any computer equipment or accessories having uniquely identifiable parts.

(10) Power yard and garden tools, including, but not limited to, garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders, or ladders.

(11) Power equipment and tools, including, but not limited to, air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers or logging equipment.

(12) Automotive and hand tools, including, but not limited to, wrench sets, sockets sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks or timing lights.

(13) Telephones or telephone equipment, including, but not limited to, telecommunications cabling, office telephones, portable home telephones, mobile telephones, cellular telephones or answering machines.

(14) Sporting equipment, including, but not limited to, bicycles, golf clubs and bags, pool cues or cases, skis, ski boots, snowboards, fishing rods or reels, or skates.

(15) Outboard motors and boating accessories, including, but not limited to, outdrives, props, inboard engines, boat covers, tops or unlicensed boat trailers.

(16) Microwave ovens that are not intended for scrap or recycling.

(17) Motor vehicles, other than as set forth in subsection (19)(a), below.

(18) Gift cards, including, but not limited to those that can be used as a form of payment at convenience stores, gas stations, grocery stores, restaurants, retail stores, and online, or exchanged for money or other valuable consideration.

(19) Regulated property does not include any of the following property:

- (a) Motor vehicles dealt in by motor vehicle dealers licensed under KRS 190.030 or purchased fully in accordance with § 123.37123.36;
- (b) Boats;
- (c) Books, magazines, beta and VHS video tapes, and comic books;
- (d) Glassware, objects d'art, or sports cards and sports memorabilia;
- (e) Furniture;
- (f) Refrigerators, stoves, washers, dryers and other similar major household appliances;
- (g) ~~Property purchased at an auction;~~
- (h) Property purchased by a pawnbroker, secondhand dealer, or secondary metals recycler from another person, who is in a business, as described in § 123.01 pawnbroker, secondhand dealer, or secondary metals recycler if the property is accompanied by proof of purchase from a verifiable business entity;
- († h) Postage stamps, stamp collections and philatelic items;
- (j i) Clothing;
- (k j) Ferrous metals and nonferrous, including items listed in subsections (6) through (16) above, when purchased by a scrap processor and which items are in such condition that their highest and primary value is either in sale or transfer as scrap metal;
- († k) Nonferrous or ferrous metals purchased by a scrap processor from a manufacturing, industrial or other commercial vendor that generates such metals in the ordinary course of business; and
- (m l) A total of five or less compact discs, digital video discs, Blu-Ray discs and/or video games purchased in any combination from a single seller in a 24-hour period.

RESTRICTED METALS. Any of the following metal items:

- (1) Manhole covers;
- (2) Electric light poles or other utility poles;
- (3) Guardrails;
- (4) Street signs, traffic signs, or traffic signals;
- (5) Whole road tiles;
- (6) ~~Funeral markers or funeral vases~~ Metal items or pieces of metal items used to identify or decorate a burial site, cemetery, or mausoleum, including but not limited to monuments, markers, vases, benches, plaques, medallions, and any metal base or foundation on which those items rest or are mounted;
- (7) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;
- (8) Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;
- (9) Stainless steel beer kegs;
- (10) A catalytic converter or any nonferrous part of a catalytic converter, unless attached to purchased as part of a vehicle; or
- (11) Storm drain covers.

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SECONDARY METALS RECYCLER. Any person(s) or business who meets the definition of "Secondary Metals Recycler" in KRS 434.900 ~~and is certified with the Kentucky Department of Professional Licensing of the Public Protection Cabinet as provided in KRS 433.902.~~

SECONDHAND DEALER. Any person or entity whose business includes buying, selling, trading, consigning, or exchanging previously owned or used tangible personal property, regardless of whether secondhand articles are the primary focus of the business or whether the dealer is a mobile dealer.

SECTION III: LMCO § 123.02 is hereby amended as follows:

Enforcement of the provisions of this chapter shall be within the jurisdiction of Metro Government except that the Louisville Metro Police Department shall not exercise authority within the corporate limits of a city of 10,000 or more population. The Louisville Metro Police Department, for the purpose of locating stolen goods, may carry out the provisions of §§ ~~123.07~~ 123.12, 123.24 and 123.34 in a city of any size or in the Louisville Metro area of their jurisdiction.

SECTION IV: LMCO § 123.03 is hereby amended as follows:

(A) Except as provided in (F) of this section, it shall be unlawful for any pawnbroker, junk, scrap, and secondhand dealer, or secondary metals recycler to engage in business within Louisville/Jefferson County except when licensed as a pawnbroker or secondhand dealer as defined in § 123.01 by the Department of Codes and Regulations under this section and in compliance with the provisions of this chapter.

(B) ~~Unless otherwise exempted, every pawnbroker and secondhand dealer, before commencing business within Louisville/Jefferson County, each business required to be licensed under this section shall make application in writing and under oath to the Department of Codes and Regulations and shall pay the required license fees.~~

(C) ~~Pawnbrokers and secondhand dealers~~ Businesses licensed under this section shall be required to maintain a separate license for each business location.

(D) The Director of the Department of Codes and Regulations may set and enforce rules and regulations deemed necessary for the orderly and complete administration of this chapter which are not inconsistent with any of the provisions of this chapter. A copy of the administrative regulations as promulgated by the Director of the Department of Codes and Regulations shall be available for public inspection in the offices of the Department of Codes and Regulations.

(E) The Director of the Department of Codes and Regulations is authorized to establish and promulgate a reasonable schedule and classifications of fees for licenses and permits as shall be issued pursuant to this chapter.

(F) The license requirements of this chapter shall not be construed to apply to the following:

(1) Upon producing proof of certification of registration with the Department of Professional Licensing of the Public Protection Cabinet, Secondary metals recyclers certified under the provisions of KRS 433.902 shall be exempt from the requirement to obtain a license with the Department of Codes and Regulations.

(2) No license is required for those persons operating yard sales, garage sales, or other similar types of activities from their own residentially zoned property, or from property on which they legally reside or from property owned by a charitable organization. These activities must be temporary in nature and must comply with all Louisville Metro ordinance provisions and Land Development Code provisions. (See Land Development Code Section 4.4.4 Garage Sales)

(3) No license is required for any member or members of a religious, charitable, health, welfare, educational, political or youth service organization, who is acting as a peddler by selling or offering to sell goods or services, including secondhand goods, to raise funds for the work of such organization and for no other purpose. The Director of the Department of Codes and Regulations may require any organization or individual claiming exemption to appear and present evidence in support of said membership and purpose.

SECTION V: LMCO § 123.04 is hereby amended as follows:

(A) Any person, firm, or corporation ~~desiring~~ required to secure a license ~~as a pawnbroker or secondhand dealer under Section 123.03~~ shall make written application, under oath, on a form provided by the Department of Codes and Regulations. Such application shall contain at least the following information:

(1) The name and permanent home address and telephone number and full local address and telephone number of the applicant.

(2) If not self-employed, the name, address and telephone number of the employer or parent organization the applicant is representing and copies of credentials or documents verifying that relationship.

(3) The nature or character of the goods, wares, merchandise or services to be offered by the applicant.

(4) The place or places where the applicant proposes to engage in business.

(5) A listing of all criminal convictions pertaining to theft, stolen property, or other pecuniary crimes of the applicant for the past five years.

(6) A statement of whether applicant has previously been denied a license under this chapter or if applicant has had previous license suspended or revoked and, if so, the reasons or the circumstances surrounding the denial, suspension or revocation.

(7) Applicant must provide proof of his or her tax identification number from the Metro Revenue Commission.

(B) Each applicant shall be required to complete the entire application form and abide by any request for information made by the Department of Codes and Regulations under this chapter. The failure to complete the form and provide all requested information may result in denial of the license.

(C) It shall be unlawful for any individual to intentionally provide false information or to intentionally omit requested information on an application for any license or permit governed by this chapter.

(D) Unless otherwise exempted, all applications shall be accompanied with the required fee(s) as specified in the schedule of fees established by the Director of the Department of Codes and Regulations.

SECTION VI: LMCO § 123.06 is hereby amended as follows:

(A) A license issued pursuant to this chapter may be suspended or revoked by the Director of the Department of Codes and Regulation subject to appeal pursuant to ~~this section~~ LMCO § 32.286. A license may be suspended or revoked for the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for a license.

(2) Fraud, misrepresentation or false statement made in connection with the business of acting as a pawnbroker or secondhand dealer.

(3) The applicant is a fugitive or has been convicted of a crime in the nature of business or commercial fraud, extortion, or receiving stolen property within the last three years.

(4) Any facts of conditions which would justify the denial of the original application.

(5) Conducting the business of a pawnbroker, ~~or secondhand dealer,~~ or secondary metals recycler under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(B) This section shall be self-executing and the suspension or revocation shall be effective immediately. The Director of the Department of Codes and Regulation shall give notice of the suspension or revocation of the license and sufficient notice shall be given if either hand-delivered or mailed to the licensee at his/her local address as listed on the licensee's application.

(C) It is unlawful for any person whose license has been suspended or revoked to continue in the business of a pawnbroker, ~~or secondhand dealer,~~ or secondary metals recycler, or to keep the license issued to him/her in his/her possession and control, and the same shall immediately be surrendered to the Director of the Department of Codes and Regulations or his/her designee.

SECTION VII: LMCO § 123.10 is hereby amended as follows:

Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased, or upon which money is loaned, having on each a copy of the entries required by ~~§ 123.04~~ 123.09 to be kept in his or her register. He or she shall not make any charge

for the ticket or receipt. The loan ticket shall contain a legible fingerprint of each person pawning or selling any goods or articles. The fingerprint shall be taken from the right index finger or, if the right index finger is missing, from the left index finger.

SECTION VIII: LMCO § 123.11 is hereby amended as follows:

(A) Pawnbrokers are required to hold all goods received through purchase, consignment, or trade for a period of ~~ten~~ twelve calendar days after receipt. The goods must be kept in their original form, uncommingled, along with a copy of the transaction record, as set forth in § ~~123.04~~ 123.09, on the premises of the business location during the holding period for purposes of inspection, if necessary, as provided by this chapter.

(B) If the Louisville Metro Police Department has probable cause to believe that an item at a pawnshop has been stolen and the Louisville Metro Police Department notifies the pawnbroker to refrain from selling the item, the item shall not be sold or removed from the premises. The order to hold shall expire 90 days after receipt of the written notification from the Louisville Metro Police Department unless extended by agreement or modified by an order from the court.

(C) Pawnbrokers shall take a digital photograph of goods received through purchase, consignment or trade. Photographs must be maintained for at least one year from the date of the transaction along with the transaction record, as set forth in § ~~123.04~~123.09. Digital photographs must accurately depict the goods received through purchase, consignment or trade. Upon request from the Louisville Metro Police Department, the pawnbroker shall provide an accurate digital photograph of the pawned good to the Louisville Metro Police Department.

(D) A pawnbroker may sell any article pawned after the expiration of 60 days from the maturity of the loan, provided that, not less than ten days before making the sale, the pawnbroker shall have given notice to the person by whom the article was pawned, by mail addressed to the post office address of such person as shown on the pawnbroker's register, notifying such person that unless he or she redeems the article within ten days from the date of mailing the notice, the article will be sold. (KRS 226.050(2))

SECTION IX: LMCO § 123.12 is hereby amended as follows:

(A) The Chief of Louisville Metro Police and persons acting by his or her orders may examine the ~~books~~ inventory or transaction records required under this chapter of any pawnbroker or his or her staff, if they deem it necessary when in search of stolen property or to verify compliance with this chapter. Any person who has in his or her possession a pawnbroker's ticket issued by a pawnbroker in Louisville Metro shall, when accompanied by an officer or by an order from the Chief of Louisville Metro Police, be permitted to examine property purporting to be pawned by that ticket. No property shall be removed from the possession of any pawnbroker without the process of law required by the existing laws of the state, or the laws and ordinances of Metro Government regulating pawnbrokers. (KRS 226.060)

(B) The Louisville Metro Police Department shall implement and maintain an on-line reporting database system to which pawnbrokers are required to report all goods received

through purchase, pawn, consignment or trade as set forth in § ~~123.08~~123.13. Information reported by pawnbrokers will be recognized as confidential or proprietary information for the purpose of investigating and prosecuting theft and/or other violations of the law.

SECTION X: LMCO § 123.21 is hereby amended as follows:

Every ~~person or mobile dealer as defined in § 123.01, who are~~ secondhand dealer engaged in, conducting or carrying on any business in Louisville Metro wherein he or she regularly purchases, in the course of his or her business, regulated property and/or restricted metals from another person shall comply with all the provisions of §§ 123.22 - 123.27; these sections shall not apply to pawnbrokers nor to secondary metals recyclers.

SECTION XI: LMCO § 123.22 is hereby amended as follows:

(A) Every ~~person, or mobile dealer as defined in § 123.01, who are~~ secondhand dealer carrying on any business as set forth in § 123.21, ~~above,~~ shall keep a transaction record, in plain, legible printed English text, for each purchase of regulated property and/or restricted metals, with the following information downloaded by 11:00 a.m. the following day to be reported to an online internet-based transaction recording service accessible to law enforcement:

(1) Information on the regulated property and/or restricted metals purchased:

- (a) The date when the property was received and bought;
- (b) The purchase price;
- (c) A digital photograph of the property; and
- (d) A description of the property that is accurate as practicable in the usage of the

trade, to include if applicable:

1. Make;
2. Model;
3. Serial number;
4. Color;
5. Size;
6. Manufacturer;
7. Vintage; and
8. Distinguishing marks or characteristics to include engraved numbers, words,

or initials;

(2) Information on the seller of the regulated property and/or restricted metals purchased:

- (a) A digital copy of the seller's state or federally issued photo identification;
- (b) If not available from the aforementioned photo identification card, the following personal information from the seller must be supplemented:

1. Full Name;

2. Signature;
3. Physical and mailing address (to include city, state, and zip code);
4. Telephone number;
5. Date of birth;
6. Gender;
7. Race;
8. Hair color; and
9. Eye color;

(c) A digital thumbprint. The digital thumbprint should be made from the right hand unless the right hand is unavailable in which case the left hand thumb should be provided;

(3) Information on the purchaser of the regulated property and/or restricted metals, including the purchaser's name, and business, if applicable.

(B) Every person carrying on any business as set forth in § 123.21, ~~above~~, in Louisville Metro shall by 11:00 a.m. each day furnish to the Louisville Metro Police Department a true and correct written report of all regulated property and/or restricted metals received by him or her by purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable in the usage of the trade. The report shall include who actually made the purchase, the name of the person or persons, his or her address, city, state and zip code, his or her sex, race, hair color, eye color, and his or her date of birth. The report shall contain a copy of the government-issued photo identification. The report shall be transmitted electronically in a format designated by the Louisville Metro Police Department.

(C) It shall be the duty of the Louisville Metro Police Department during regular business hours to examine and inspect transaction records, and if sufficient information cannot be gained from an inspection of transaction records, it shall be the duty of any person to permit and allow the officer to examine any and all regulated property and/or restricted metals mentioned herein belonging to or purchased by such person. A transaction record and digital photograph for a purchase of all regulated property and/or restricted metals shall be maintained together on the premises for at least one year after the date of such purchase. The digital photo must accurately depict the regulated property and/or restricted metals purchased.

(D) Every secondhand dealer ~~person carrying on business as set forth in § 123.21, above~~, shall give a plain written or printed receipt of the regulated property or restricted metals purchased.

SECTION XII: LMCO § 123.23 is hereby amended as follows:

No person, ~~secondary metals recycler, or mobile dealer as defined in § 123.01, who are carrying on any business as set forth in § 123.21, above~~, secondhand dealer shall at any time or under any circumstances purchase from a minor any regulated property and/or restricted metals ~~as defined in § 123.01, above~~.

SECTION XIII: LMCO § 123.24 is hereby amended as follows:

(A) Any Law Enforcement Agency may examine during regular business hours the ~~books~~ inventory or transaction records required under this chapter of any ~~person or mobile dealer as defined in § 123.01, who is doing business as set forth in § 123.21, above,~~ secondhand dealer or his or her clerk, if ~~they deem~~ law enforcement deems it necessary when in search of stolen property or to verify compliance with this chapter. Any person who has in his or her possession a receipt from selling regulated property or restricted metals to a ~~person carrying on a business as described in § 123.21, above,~~ secondhand dealer shall allow a Law Enforcement Agency to examine ~~regulated property items~~ regulated property items purporting to be sold by that receipt. No property shall be removed from the possession of any ~~person doing business as set forth in § 123.21, above,~~ secondhand dealer without due process of law as required by the existing laws of the Commonwealth of Kentucky, or the laws and ordinances of the Louisville/Jefferson County Metro Government.

(B) If a Law Enforcement Agency has probable cause to believe that an item in the possession of a ~~person or mobile dealer as defined in § 123.20,~~ secondhand dealer who is carrying on any business as set forth in § 123.21 has been stolen and a Law Enforcement Agency provides notification to refrain from selling the item, the item shall not be sold, modified, altered, destroyed, or removed from the premises. The order to hold shall expire 90 days after receipt of a verbal notification through a phone call or by electronic email notification from any Law Enforcement Agency unless extended by agreement or modified by an order from the court.

(C) The Louisville Metro Police Department shall implement and maintain an on-line reporting database system to which any ~~person or mobile dealer as defined in § 123.20, who is carrying on any business as set forth in § 123.21~~ secondhand dealer is required to report the purchases of regulated property and restricted metals as set forth in § 123.22. Information reported will be recognized as confidential or proprietary information for the purpose of investigating and prosecuting theft and/or other violations of the law.

SECTION XIV: LMCO § 123.25 is hereby amended as follows:

Gold, silver, precious metals, regulated property and/or restricted metals purchased by a ~~person or mobile dealer as defined in § 123.01, who are carrying on a business as described in § 123.21, above~~ secondhand dealer, shall not be sold, modified, altered or destroyed for a period of 12 calendar days after the date of purchase ~~by a person or mobile dealer who are carrying on a business as described in § 123.21.~~ The property purchased must be kept in its original form, not commingled, along with a copy of the transaction record, as set forth in § 123.22, on the premises of the business location during the holding period for purposes of inspection, if necessary, as provided by this subchapter. This section shall not apply to ferrous metals, or nonferrous metals, and items listed in subsection (17) of the definition for "regulated property" in § 123.01 that are intended for scrap or recycling and are not defined as restricted metals.

SECTION XV: LMCO § 123.31 is hereby amended as follows:

Every secondary metals recycler ~~as defined in § 123.01, who is~~ engaged in, conducting or carrying on any business in Louisville Metro wherein he or she regularly purchases, in the course of his or her business, regulated property and/or restricted metals from another person shall comply with all the provisions of §§ 123.31 - 123.37; these sections shall not apply to pawnbrokers nor to secondhand dealers.

SECTION XVI: LMCO § 123.32 is hereby amended as follows:

(A) Every secondary metals recycler ~~as defined in § 123.01, who is~~ carrying on any business as set forth in § 123.31, ~~above,~~ shall keep a transaction record, in plain, legible printed English text, for each purchase of regulated property and/or restricted metals, with the following information downloaded by 11:00 a.m. the following day to be reported to an online internet-based transaction recording service accessible to law enforcement:

(1) Information on the regulated property and/or restricted metals purchased:

- (a) The date when the property was received and bought;
- (b) The purchase price;
- (c) A digital photograph of the property.

1. If being sold on a large outdoor scale then it shall be taken by an overhead camera at the scale and a digital photograph of the license plate from the vehicle that is selling the property at the scale shall also be taken;

2. If being sold on an indoor scale then it shall be taken by an overhead camera and an individual picture shall be taken of each type of ferrous or nonferrous metal being purchased;

(d) A description of the property that is as accurate as practicable in the usage of the trade, to include a brief description of the ferrous or nonferrous type of metal being purchased;

(2) Information on the seller of the regulated property and/or restricted metals purchased:

- (a) A digital copy of the seller's state or federally issued photo identification;
- (b) If not available from the aforementioned photo identification card, the following

personal information from the seller must be supplemented:

- 1. Full Name;
- 2. Signature;
- 3. Physical and mailing address (to include city, state, and zip code);
- 4. Telephone number;
- 5. Date of birth;
- 6. Gender;
- 7. Race;
- 8. Hair color; and
- 9. Eye color;

(c) A digital thumbprint. The digital thumbprint should be made from the right hand unless the right hand is unavailable in which case the left hand thumb should be provided;

(3) Information on the purchaser of the regulated property and/or restricted metals, including the purchaser's name, and business, if applicable.

(B) Every secondary metals recycler carrying on any business as set forth in § 123.31, ~~above~~, in Louisville Metro shall by 11:00 a.m. the next business day furnish to the Louisville Metro Police Department a true and correct written report of all regulated property and/or restricted metals received by him or her by purchase, from the preceding business day. The report shall describe the goods as accurately as practicable in the usage of the trade. The report shall include who actually made the purchase, the name of the person or persons, his or her address, city, state and zip code, his or her sex, race, hair color, eye color, and his or her date of birth. The report shall contain a digital copy of the government-issued photo identification and a digital photo of the seller at the time of the transaction. The report shall be transmitted electronically in a format designated by the Louisville Metro Police Department.

(C) It shall be the duty of the Louisville Metro Police Department during regular business hours to examine and inspect transaction records, and if sufficient information cannot be gained from an inspection of transaction records, it shall be the duty of any person to permit and allow the officer to examine any and all regulated property and/or restricted metals mentioned herein belonging to or purchased by such person. A transaction record and digital photograph for a purchase of all regulated property and/or restricted metals shall be maintained together on the premises for at least one year after the date of such purchase. The digital photo must accurately depict the regulated property and/or restricted metals purchased in accordance with § 123.32(A)(1)(c).

(D) Every secondary metals recycler ~~carrying on business as set forth in § 123.31, above~~, shall give a plain written or printed receipt of the regulated property or restricted metals purchased.

SECTION XVII: LMCO § 123.33 is hereby amended as follows:

No secondary metals recycler ~~as defined in § 123.120, who is carrying on any business as set forth in § 123.31, above~~, shall at any time or under any circumstances purchase from a minor any regulated property and/or restricted metals ~~as defined in § 123.01, above~~.

SECTION XVIII: LMCO § 123.34 is hereby amended as follows:

(A) Any Law Enforcement Agency may examine during regular business hours the ~~books~~ inventory or transaction records required under this chapter of any secondary metals recycler ~~as defined in § 123.01, who is doing business as set forth in § 123.31, above~~, or his or her clerk, if ~~they deem~~ law enforcement deems it necessary when in search of stolen property or to verify compliance with this chapter. Any person who has in his or her possession a receipt from selling regulated property or restricted metals to a person ~~carrying on a business as described in § 123.31, above~~, secondary metals

recycler shall allow a Law Enforcement Agency to examine ~~regulated property items~~ purporting to be sold by that receipt. No property shall be removed from the possession of any ~~person doing business as set forth in § 123.31, above,~~ secondary metals recycler without due process of law as required by the existing laws of the Commonwealth of Kentucky, or the laws and ordinances of the Louisville/Jefferson County Metro Government.

(B) If a Law Enforcement Agency has probable cause to believe that an item in the possession of a secondary metals recycler as defined in § 123.01, who is carrying on any business as set forth in § 123.31 has been stolen and a Law Enforcement Agency provides notification to refrain from selling the item, the item shall not be sold, modified, altered, destroyed, or removed from the premises. The order to hold shall expire seven days after receipt of a verbal notification through a phone call or by electronic email notification from any Law Enforcement Agency unless extended by agreement or modified by an order from the court.

(C) The Louisville Metro Police Department shall implement and maintain an on-line reporting database system to which secondary metals recyclers are required to report the purchases of regulated property and restricted metals as set forth in ~~§ 123.31~~ 123.32. Information reported will be recognized as confidential or proprietary information for the purpose of investigating and prosecuting theft and/or other violations of the law.

SECTION XIX: LMCO § 123.35 is hereby amended as follows:

Gold, silver, precious metals, regulated property and/or restricted metals purchased by a secondary metals recycler ~~as defined in § 123.01, who is carrying on a business as described in § 123.31, above,~~ shall not be sold, modified, altered or destroyed for a period of ten calendar days after the date of purchase by a secondary metals recycler ~~who is carrying on a business as described in § 123.31.~~ The property purchased must be kept in its original form, uncommingled, along with a copy of the transaction record, as set forth in § 123.32, on the premises of the business location during the holding period for purposes of inspection, if necessary, as provided by this subchapter. This section shall not apply to ferrous metals, or nonferrous metals, ~~and items listed in subsection (17) of the definition for "regulated property" in § 123.01 that are intended for scrap or recycling and are not defined as restricted metals.~~

SECTION XX: LMCO § 123.36 is hereby amended as follows:

(A) No ~~business, as defined in § 123.21,~~ pawnbroker, secondhand dealer, or secondary metals recycler may accept the transfer of a vehicle without certificate of title, unless the vehicle is at least ten fifteen model years old and the seller of the vehicle provides the following sworn statement that includes, but is not be limited to, the following:

- (1) The name, address, and driver's license number of the owner;
- (2) A description of the vehicle including the year, make, model, vehicle identification number, and color;
- (3) A sworn certification that the owner:
 - (a) Never obtained a title to the vehicle in his or her name; or

- (b) Was issued a title for the vehicle, but the title was lost or stolen;
- (4) A sworn statement that the vehicle is at least ~~ten~~ fifteen model years old;
- (5) A sworn statement that the vehicle shall never be titled again; it must be dismantled or scrapped;
- (6) An acknowledgment that to knowingly falsify any information on this statement is a misdemeanor, punishable by imprisonment for up to 90 days and/or a fine of not less than \$500;
- (7) The buyer of the vehicle must sign this statement and include the following information:
 - (a) The date of the transaction;
 - (b) The name and address of the business acquiring the vehicle; and
 - (c) The amount paid to the seller of the vehicle to acquire the vehicle.
- (B) Vehicles purchased for purposes of scrapping or dismantling for parts shall be subject to the same requirements of §§ 123.12, 123.24 and 123.34 as regulated property, and shall be reported in accordance with the provisions of §§ 123.09, 123.22(B) and 123.32. The transaction record shall also include the make, model and vehicle identification number of the vehicle.
- (C) Vehicles purchased for purposes of scrapping or dismantling for parts shall not be sold, altered, modified, or destroyed for a period of 10 calendar days after the date of purchase, unless the vehicle was transferred with a valid certificate of title executed under KRS 186A.215.
- (D) No business, as defined in § 123.21, pawnbroker, secondhand dealer, or secondary metals recycler may purchase or accept the transfer of a vehicle for purposes of scraping or dismantling for parts without fully complying with the provisions of the National Motor Vehicle Title Information System (NMVTIS), 28 CFR Part 25. It shall be the duty of any such business to be able to document compliance with NMVTIS as a part of its responsibilities under § 123.22(B) §§ 123.09, 123.22 and 123.32.
- (E) No business, as defined in § 123.21, pawnbroker, secondhand dealer, or secondary metals recycler may purchase or accept the transfer of a vehicle for purposes of scraping or dismantling for parts without verifying the legitimacy of a vehicle VIN number in capable software or taking a digital photograph of the VIN number and maintaining the digital photograph for at least one year from the date of purchase along with the transaction record.
- (F) The term "vehicle" as used in § ~~123.37~~ this section does not include vehicles which have been mechanically flattened, crushed, baled, or logged prior to sale and were sold for purposes of scrap metal only.
- (G) Vehicles sold by local government pursuant to KRS 82.630 are exempt from § ~~123.36~~ this section.

SECTION XXI: LMCO § 123.37 is hereby amended as follows:

Metro Government may impound a motor vehicle used to transport stolen metals, stolen catalytic converters or parts of stolen catalytic converters, or stolen motor vehicles to a secondary metals recycler for a period of not more than 12 months. The impoundment period imposed will be determined by the court during the adjudication of the underlying criminal charges and/or ordinance violations. The size and nature of the violation shall be factors considered by the court in determining the length of impoundment. The court may order impoundment of a motor vehicle used to transport stolen metals or stolen motor vehicles to a secondary metals recycler. Fees incurred for towing, handling, and storage of the impounded motor vehicle, set forth in LMCO § 72.062, shall be imposed against the responsible party during the adjudication of the underlying criminal charges and/or ordinance violations.

SECTION XXII: A new section of LMCO is hereby created:

§ 123.38 PURCHASE OF DETACHED CATALYTIC CONVERTER

(A) In addition to the mandates of KRS 433.890 regarding the purchase of catalytic converters and all provisions of this chapter regarding restricted metals, it shall be unlawful for any person or business entity to purchase a used catalytic converter that is detached from a motor vehicle unless:

(1) The purchase is made from a person who has maintained a record pursuant to KRS 433.890(1) and who presents that record to the purchaser; or

(2) The purchase is made from a person who owns the vehicle from which the catalytic converter was removed, who presents proof of the person's ownership of the vehicle from which the converter was removed, and can reasonably link the catalytic converter to the vehicle. The purchaser shall maintain records of the proof for two years, including the vehicle identification number (VIN) associated with the vehicle.

(B) Upon the purchase of a used catalytic converter, if there is no vehicle identification number (VIN) previously engraved on the converter, the purchaser shall engrave the last five digits of the VIN number of the vehicle from which the converter was removed onto the converter.

SECTION XXIII: A new section of LMCO is hereby created:

§ 123.39 POSSESSION OF A DETACHED CATALYTIC CONVERTER

(A) It shall be unlawful for any person to possess a catalytic converter that is detached from a motor vehicle with intent to sell the catalytic converter unless:

(1) The person possessing the catalytic converter presents proof of the person's ownership of the vehicle from which the converter was removed, and can reasonably link the catalytic converter to the vehicle; or

(2) The person presents proof that possession of the catalytic converter lawfully passed from the owner of the vehicle from which the converter was removed to the person.

(B) For purposes of this section, possession of the detached catalytic converter in violation of subsection (A) shall be prima facie evidence of intent to sell unless the catalytic converter is intact within a complete automotive exhaust system.

SECTION XXIV: LMCO § 123.99 is hereby amended as follows:

(A) Except for violations of §§ 123.21, 123.22, 123.31, and 123.32, 123.36, 123.38, and 123.39 any violation of Chapter 123 shall be classified as a civil offense and shall be enforced through the Code Enforcement Board as provided in §§ 32.275 et seq. or as it may be amended. The civil penalty for violations of this section are set forth below. Each day a violation continues shall be a separate violation of this section.

(B) Any pawnbroker, secondhand dealer, or secondary metals recycler who violates any of the provisions of §§ 123.04, 123.05, 123.06, 123.07, 123.08, 123.09, or 123.11 shall be fined not less than \$100, nor more than \$1,000.

(C) Any pawnbroker who violates any of the provisions of § 123.13 shall be fined not less than \$100 nor more than \$1,000.

(D) Any licensee who violates § 123.03 shall be fined not less than \$100, nor more than \$1,000.

(E) Any person, secondhand dealer, secondary metals recycler, or mobile dealer as defined in § 123.01, who violates the provisions of § 123.21 or § 123.31 shall be fined not less than \$100 nor more than \$1,000 for each offense, or imprisoned not more than 50 days, or both. Each day such violations continue, shall constitute a separate offense.

(F) Any person, secondhand dealer, secondary metals recycler, or mobile dealer as defined in § 123.01, who shall neglect or refuse to comply with or violates the provisions of § 123.22 or § 123.32 shall be fined not less than \$100 nor more than \$1,000 for each offense, or imprisoned not more than 50 days, or both. Each day such person, firm, or corporation shall neglect or refuse to comply with or violate any of the provisions of that section shall constitute a separate offense.

(G) (1) Any person who knowingly falsifies information on the statement required by § 123.36(A) shall be guilty of a Class B misdemeanor and upon conviction shall be criminally fined not less than \$500, or imprisoned for a period not to exceed 90 days or both;

(2) Any person who violates § 123.36(C) shall be guilty of a Class A misdemeanor and upon conviction shall be criminally fined not less than \$100 nor more than \$500 for each offense, or imprisoned for a period not to exceed 12 months, or both.

(H) (1) Any person who violates § 123.38 shall be guilty of a Class A misdemeanor and upon conviction shall be criminally fined not less than \$100 nor more than \$500 for each offense, or imprisoned for a period not to exceed 12 months, or both.

(2) Independent of any non-felony criminal prosecution, any person violating § 123.38 shall be cited civilly. A minimum civil penalty fine of \$500 or a maximum civil penalty fine of \$1500 shall be issued.

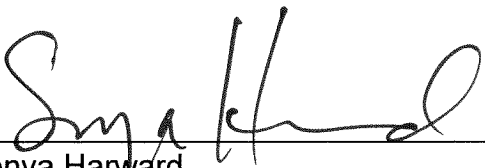
(3) Each catalytic converter purchased in violation of § 123.38 shall constitute a separate violation.

(1) (1) Any person who violates § 123.39 shall be criminally fined not less than \$100 nor more than \$500 for each offense, or imprisoned for a period not to exceed 12 months, or both.

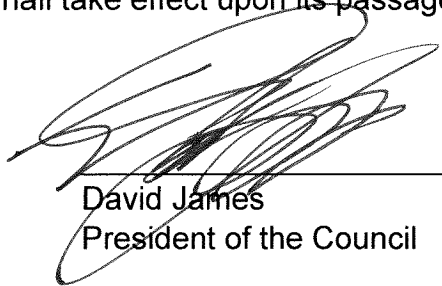
(2) Independent of any non-felony criminal prosecution, any person violating § 123.39 shall be cited civilly. A minimum civil penalty fine of \$500 or a maximum civil penalty fine of \$1500 shall be issued.

(3) Each catalytic converter possessed in violation of § 123.39 shall constitute a separate violation.

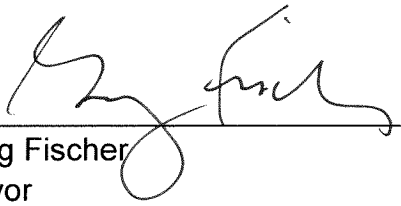
SECTION XXV: This Ordinance shall take effect upon its passage and approval.



Sonya Harward
Metro Council Clerk



David James
President of the Council



Greg Fischer
Mayor

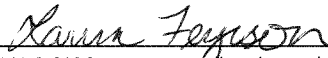
5/27/2021

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
May 20, 2021

BY: 
O-074-21 V. 2 CABS pawn, secondhand, metals 5-7-21 (al).docx