

Legislation Text

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Amending Chapter 9-600 of The Philadelphia Code, entitled “Service and Other Businesses,” by amending Section 9-612, entitled “Fences Around Automobile Wrecking Yards and Junk Yards and Buildings,” and Section 9-613, entitled “Junk Dealers,” to change the section titles, add definitions, update requirements for waste handling facilities, licenses and salvage transactions; and modify penalties; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-600. SERVICE AND OTHER BUSINESSES

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§ 9-612. Fences Around [Automobile Wrecking Yards and Junk Yards and Buildings] *Waste Handling Facilities*.

(1) Definitions. In this Section the following definitions shall apply:

(a) [Automobile] *Vehicle Salvage and Wrecking Yard*. [Same as defined in Chapter 5-300 of the Fire Code] *Any property, premises or part thereof, whereon or wherein vehicles are wrecked, dismantled, salvaged or converted to scrap, or stored incidental to these purposes.*

(b) [Junk Yards and Buildings] *Salvage facility*. [Same as defined in Chapter 5-2000 of the Fire Code] *Any property, premises, or part thereof, whereon or wherein discarded material and rubbish is handled, stored, bought, sold, sorted, picked, or otherwise processed.*

(c) *Rubbish*. *Combustible and noncombustible waste materials, including paper, rags, cartons, scrap metals, mineral matter, dust and discarded appliances and electronics.*

(d) *Waste handling facility*. *Any yard, building or facility that accepts solid waste products and then separates out designated materials through a manual or mechanical process for resale or reuse. Such facilities shall include salvage facilities and vehicle salvage and wrecking yards.*

(2) Prohibited Conduct. No person shall own, lease to another or rent from another or otherwise possess or operate any premises for a[n automobile wrecking yard or junk yard and buildings] *waste handling facility* unless the premises are [either:

(a) fenced] *enclosed by an opaque fence of at least eight (8) feet in height, constructed with durable material around the perimeter of those premises to the extent necessary to obscure from the view of any*

person using an abutting street the activity conducted on and any material upon those premises, *and heights of piled rubbish do not exceed twenty (20) feet* [; or

(b) if fencing is impractical in the opinion of the Department of Licenses and Inspections trees and shrubs may be planted in a terrace-type manner if the Department finds that the premises will be obscured from view by any persons using an abutting street].

(3) *Zoning and Building Permits*. No fence shall be erected, [maintained,] altered or restored unless application for approval is made to the Department of Licenses and Inspections [on forms supplied by the Department] *for zoning and building permits*. Upon approval by the Department and the payment of [a permit] *the appropriate fees*, [of ten (10) dollars, a]*zoning and building permits* will be issued. *Notwithstanding any provisions of the Zoning Code*, [N]no approval shall be given to any fence which is not [a masonry or aluminum fence] *at least 8 (eight) feet in height and opaque*.

(4) *Penalties*. Any person violating this Section shall, upon conviction, be subject to a fine of not more than three hundred (300) dollars.

(5) *Repeat Offenders*. Any person who commits, on more than one occasion *within a three hundred and sixty-five (365) day period*, a violation of this Section shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than three hundred (300) dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense. *Repeat offenders are also subject to revocation of the license required by the Philadelphia Fire Code and § 9-613 of this Chapter*.

§ 9-613. [Junk]Salvage Dealers.

(1) *License required*. Pursuant to Section F-105 of the Philadelphia Fire Code, a Waste Handling Facility License is required to operate a salvage facility, a vehicle salvage and wrecking yard or other waste material handling facility.

(2) *Definitions*.

(a) [Junk]Salvage Dealer. An individual, partnership, association, corporation, or other business entity [doing business]*operating a waste handling facility as defined in Section 9-612 of the Philadelphia Code*, within the City of Philadelphia [which handles, stores, buys, sells, sorts, picks or otherwise processes junk, as commonly defined, including but not limited to, rags, paper, wastes, scrap metal, plumbing fixtures, and other similar materials].

(b) *Utility cover*. A cover made of metal or similar material that secures an area on the street or sidewalk in connection with gas, electric, water or other utility service.

(c) HVAC component. Any evaporator coil or condenser used in connection with an air conditioner of any size.

(d) *Catalytic converter. A device from the exhaust system of a motor vehicle, which may contain precious metals.*

[(2)](3)Records Required.

(a) All [junk]salvage dealers shall provide receipts to sellers and maintain adequate records in connection with all business transactions pertaining to *the purchase of all waste material, including but not limited to bronze, copper, all plumbing fixtures such as pipes, bathtubs, toilets, sinks and all similar material, salvaged automobiles and vehicle parts, appliances, electronics* and all HVAC components[, as well as any other items of which they may be required to keep a record in accordance with certain regulations promulgated by the Department of Licenses and Inspections].

(.1) Such receipts and records shall include information stating the name, address and commercial activity license number of the person and/or company with whom the [junk]salvage dealer is transacting business; the type and amount of material involved in the transaction; the date of the transaction; the amount paid or received in connection with such transaction; *the license number of the vehicle delivering the material involved in the transaction* and such other information as may be required by any regulations the Department of Licenses and Inspections shall [from time to time] promulgate.

(.2) No [junk]salvage dealer may conduct any business transaction described in *this* Section [9-613(2)(a)] without first securing adequate customer identification. For purposes of this subsection, "securing adequate customer identification" means that at the time of the transaction, the dealer obtains a photocopy [of one of the following types of identification] from the customer [:

- (i) A] of a valid identification document that contains a photograph and is issued by [the federal government or a state] a government agency.[:
- (ii) A valid motor vehicle operator's license issued by any state and containing a photograph;
- (iii) A valid military identification card containing a photograph;
- (iv) A valid passport;
- (v) A valid alien registration card containing a photograph;
- (vi) A valid government-issued senior citizen identification card containing a photograph;]

(.3) The records of a [junk]salvage dealer, including those required under [subsection (3) of] this Section, shall be retained for a period of two (2) years after the date of a transaction.

(.4) In addition to the information required under subsection (a)(.1) to be set forth on a receipt for purchase of materials, the receipt shall contain the following statement: "By accepting payment

from (Insert name of [Junk]salvage dealer), seller represents and warrants that the material documented by this receipt is owned or was lawfully obtained by the seller and the seller has the legal right to sell such materials."

[(3)](4)Prohibited Conduct.

(a) *No salvage dealer shall accept any material that is brought to the salvage dealer's premises by any other means than a licensed motor vehicle.*

(b) No [junk]salvage dealer shall handle, store, buy, sell, sort, pick or otherwise process any of the following items unless the person who sells such an item to the [junk]salvage dealer provides proof of lawful possession and ownership of the materials or authorization to sell the materials on behalf of a documented owner: utility covers; cables used only in high voltage transmission lines; historical markers; cemetery plaques; traffic signs; refuse containers or refuse container components; HVAC components; new materials or new or used equipment or tools used in connection with building construction; or catalytic converters. Proof of lawful possession must be reasonable, taking into account the quantity and condition of the items.

[(4)] (c) No [junk]salvage dealer shall purchase any of the types of materials or items identified in subsections (2)(a) or (3) with any [form of payment other than by check]direct cash payment.

(5) Penalties and Cease Operations Orders. Any [junk]salvage dealer who violates any provision of this Section commits a Class II offense, and shall have his license [and any license possessed under Title 5 revoked]suspended for ninety (90) days for the first offense and for a period of one (1) year upon [each succeeding] the second offense. *Repeated violations shall subject the license to revocation.*

(a) During any period of license revocation or *suspension*, the business shall cease operation as a waste handling facility. The Department shall issue a Cease Operations Order for the business location of the revoked *or suspended* license [in accordance with the same procedures as set out in Section 6-103 of the Health Code], provided that the Cease Operations Order shall identify the prohibited operations and shall state that the applicable license has been revoked *or suspended* for violation(s) of the Code. The Cease Operations Order shall be in force for the full period of any license revocation[,] *or suspension* and shall set forth this period in the Order. The Department shall not remove any posted Cease Operations Order until the Department is satisfied that all [revoked]suspended licenses have been restored, or the property interests in the location have changed so that neither the person under a license revocation nor any member of his immediate family retains a pecuniary interest therein.

(b) *Where a license has been revoked, [N]no new waste handling facility license shall be issued for a business location posted with a Cease Operations Order, so long as any person under a license revocation, or any member of such person's immediate family, retains a pecuniary interest in the property at that location.*

Explanation:

[Brackets] indicate matter deleted.

Italics indicate matter added.