

AN ORDINANCE 2012-12-13-1006

AMENDING CHAPTER 16, LICENSES AND BUSINESS REGULATIONS, ARTICLE VII, BY RENAMING SALVAGE YARDS AND AUTO DISMANTLERS, AND BY AMENDING CHAPTER 35, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY HARMONIZING APPLICABLE LAND USE PROVISIONS WITH REVISED CHAPTER 16 ARTICLE VII, AND PROVIDING FOR PENALTIES, PUBLICATION AND AN EFFECTIVE DATE.

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WHEREAS, legislative changes to Chapter 1956 of the Texas Occupations Code relating to the regulation of metal recycling entities necessitate review and revision of applicable City law; and

WHEREAS, in efforts to clarify and strengthen City Code provisions relating to salvaging and recycling operations, it became apparent that salvaging efforts, for city purposes, was more clearly identified as used automotive parts recycling and recycling operations was more clearly identified as metal recycling operations; and

WHEREAS, in addition, it was apparent that coordination of these operations was necessary with underlying land use; and

WHEREAS, the City of San Antonio is authorized to regulate used automotive parts recycling and metal recycling businesses and procedures through its police powers in order to aid in the recovery of stolen property; and

WHEREAS, Chapter 16 provides licensing and recordkeeping requirements and enforcement procedures that will enable the police department to identify and recover illegally appropriated public and private property composed of certain metals; and

WHEREAS, changes in Chapter 35 will effectively harmonize land use requirements with licensing and recordkeeping requirements in Chapter 16; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 16, Licensed and Business Regulations, Article VII, Salvage Yards and Auto Dismantlers, is amended through underlining (added) and deletion of stricken (~~deleted~~) language.

SECTION 2. Chapter 16, Article VII, Salvage Yards and Auto Dismantlers is hereby amended by renaming said article as Used Automotive Parts Recyclers and Metal Recycling Entities;

ARTICLE VII. USED AUTOMOTIVE PARTS RECYCLERS AND METAL RECYCLING ENTITIES [SALVAGE YARDS AND AUTO DISMANTLERS]

Compliance with both divisions is in addition to State and Federal mandates.

SECTION 3. Chapter 16, Article VII, Division 1 General Requirements for Salvage and Recycling Uses is amended to read as follows:

DIVISION 1. – USED AUTOMOTIVE PARTS RECYCLERS [GENERALLY REQUIREMENTS FOR SALVAGE AND RECYCLING USES]

SECTION 4. Section 16-186 Definitions, is amended to read as follows:

Sec. 16-186. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Best management practices means a technique or series of structural and non-structural techniques which, when used in a storm water pollution prevention plan, as required by federal law, is proven to be effective in controlling industrial related runoff.

Chief of police means the chief of police for the city and such persons as he may designate to perform his duties under this article.

City means the City of San Antonio, Bexar County, Texas.

~~[Dealer means a person, firm, or corporation buys salvage for recycling or resale or owns or operates a salvage yard, as defined herein.]~~

Department means the department of development services.

Director means the director of the development ~~[housing and neighborhood]~~ services department.

Hazardous Material means any hazardous or toxic substance, material, or waste which is or becomes regulated by any governmental authority of the State of Texas or the United States government, including without limitation, any material or substance which (i) is defined or listed as a “hazardous material,” “toxic pollutant,” “hazardous waste,” “hazardous substance,” or “hazardous pollutant” under applicable federal, state, or local law or administrative code promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gasoline, oil, and similar

petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains polychlorinated biphenyls ("PCBs"), or (v) contains radioactive materials.

Metal recycling entity means a business that is operated from a fixed location and is predominately engaged in the following and excludes used automotive parts recycling businesses.

- (A) Performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;
- (B) The use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or
- (C) Purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

Motor vehicle means any motor driven or propelled vehicle required to be registered under the laws of this state; a trailer or semitrailer, other than manufactured housing, that has a gross weight that exceeds 4,000 pounds; a house trailer; an all-terrain vehicle, as defined by Texas Transportation Code, §502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course. Any metals comprising a motor vehicle are not regulated materials as defined in this Article.

Non-repairable motor vehicle means a motor vehicle that:

- (A) Is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or
- (B) Comes into this state under a title or other ownership document that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

Normal allocation means all the parts of a motor vehicle constituting its ordinary assemblage.

Person means an individual, corporation, partnership or any other group acting as a unit.

Regulated material means aluminum material, bronze material, copper or brass material, or regulated metal.

Regulated metal means manhole covers; guardrails; metal cylinders designed to contain

compressed air, oxygen, gases or liquids; beer kegs made from metal other than aluminum; historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum; unused rebar; street signs; drain gates; safes; communication, transmission, and service wire or cable; condensing or evaporator coils for central heating or air conditioning units; utility structures, including the fixtures and hardware; aluminum or stainless steel containers designed to hold propane for fueling forklifts; metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions; catalytic converters not attached to a vehicle; fire hydrants; metal bleachers or other seating facilities used in recreational areas or sporting arenas; any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad; insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation; backflow valves; and metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

Salvage materials means [~~and refers to~~] any motor vehicle, salvage motor vehicle, non-repairable motor vehicle and all their respective parts, scrap, used or obsolete ferrous and nonferrous metals, and regulated materials and regulated metals as defined in this division. [~~secondhand worn out, cast off, or discarded article or material (including but not limited to bodies, parts, and sections of junked, wrecked, or inoperable vehicles, airplanes, and boats) ready for destruction, or collected or stored for dismantling, conversion, or removal of parts; and shall include any article kept for more than sixty (60) days for the purpose of its repair.~~]

Salvage motor vehicle means

(A) A motor vehicle that:

- (i) Has damage to or is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage; or
- (ii) Is damaged and that comes into this state under an out-of-state salvage motor vehicle certificate of title or similar out-of-state ownership document that states on its face “accident damage,” “flood damage,” “inoperable,” “rebuildable,” “salvageable,” or similar notion; and

(B) Does not include 1) a non-repairable motor vehicle; 2) an out-of-state motor vehicle with a “rebuilt,” “prior salvage,” “salvaged,” or similar notation; or 3) a motor vehicle for which an insurance company has paid a claim for:

- (i) The cost of repairing hail damage; or
- (ii) Theft, unless the motor vehicle was damaged during the theft and before recovery to the extent described by subparagraph (A)(i).

~~[Salvage yard means any facility or premises used for the storage or collection of regulated metal or salvage as defined below in section 16-199.]~~

Used Automotive Parts Recycler means a person licensed under this division to operate a used automotive parts recycling business.

Used Automotive Parts Recycling means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or nonrepairable motor vehicles, including the resale of those vehicles.

SECTION 5. Section 16-187 Zoning requirement, is added to read as follows:

Sec. 16-187. Zoning requirement.

- (a) Proper zoning is required for the establishment or expansion of a use as required by Chapter 35, Unified Development Code of the City Code of San Antonio, Texas.
- (b) In granting any required specific use authorization, the City Council may impose conditions that the applicant must comply with prior to issuance of a license and a certificate of occupancy by the director of development services for the use of land or buildings on the property pursuant to the approval. City Council imposed conditions shall not be construed as conditions precedent to the granting of specific use authorization, but shall be construed as conditions precedent to the granting of a license and certificate of occupancy.
- (c) It is unlawful to own or operate a used automotive parts recycling business without the appropriate zoning classification.

SECTION 6. Section 16-187 License required, is renumbered as Section 16-188, and amended to read as follows:

Sec. 16-188. [16-187] License required.

- (a) A person [No dealer may] shall not own or operate a used automotive parts recycling business [salvage yard,] within the city without a valid city issued used automotive parts recycler license. [A dealer may transfer a valid license only with written approval of the director and in compliance with all applicable City Code requirements.]
- (b) A person owning or operating a used automotive parts recycling business shall not

accept regulated material, as defined above, outside a motor vehicle's normal allocation, without a city issued metal recycling entity license.

SECTION 7. Section 16-188 Application for license, is renumbered as 16-189 and amended to read as follows:

Sec. 16-189. ~~[16-188]~~ Application for license.

- (a) All applications for licenses to operate a used automotive parts recycling business ~~[salvage yards]~~ must be made in writing to the director on a form prescribed by the director and shall, among other things, contain:
- (1) The name, residence, and business address of the applicant (this information shall be listed for each member of the partnership and for each officer of a corporation);
 - (2) The name and nature of the proposed operation; and
 - (3) The present zoning, address, and legal description of the premises for which application is being applied.
- (b) All applications must contain the following statement:
 "The license applied for shall be subject to all provisions of the codes and ordinances of the city relating to used automotive parts recycling ~~[salvage yards and auto dismantlers]~~ as well as all state and federal regulations relating to such operations."
- (c) All applications must be signed and sworn to by the party applying for the license (by a general partner of a partnership and by an officer of a corporation) before a notary public or other official authorized to administer oaths.
- (d) The application ~~[to operate a salvage yard engaged in the dismantling or conversion of junked, wrecked, or inoperable vehicles whether for scrap or parts]~~ must include:
- (1) A copy of the national pollutant discharge elimination system discharge permit or notice of coverage for that location if required;
 - ~~(2) A copy of the storm water pollution prevention plan for that location which must include:~~
 - ~~a. A list of people on the operation's pollution prevention team, with an outline of their respective responsibilities;~~
 - ~~b. A statement of waste minimization or waste reduction efforts in place for that location;~~
 - ~~c. A copy of the spill response plan in place for that location;~~
 - ~~d. A list of the spill response equipment available at that location;~~
 - ~~e. A list of authorized personnel on that location to respond to a spill at that location;~~
 - ~~f. A list of significant spills or leaks occurring for the last three (3) years at that location;~~

- ~~g. Records of scheduled inspections of storm water management devices at that location;~~
 - ~~h. A site map detailing the outfalls, drainage areas, drainage patterns, and surface waters for that location;~~
 - ~~i. A list of non-storm water discharges and their areas (such as springs, air conditioner condensation, etc.) for that location;~~
 - ~~j. Records of non-storm water discharge testing for that location;~~
 - ~~k. A list of floor drains at that location that discharge to the storm sewer;~~
 - ~~l. An inventory of significant materials and/or inventory of potential pollutant sources at that location exposed to rainfall; and~~
 - ~~m. A summary of any sampling data for storm events for that location;~~
- (3) Identification of the best management practices, measures and controls for that location which should include but not be limited to:
- ~~a. Draining fluid and removing batteries from incoming vehicles as soon as feasible;~~
 - ~~b. Labeling and separating fluid storage containers such as oil, antifreeze, fuel, etc.;~~
 - ~~c. Recycling or reusing vehicle fluids where practical;~~
 - ~~d. Cleaning parts indoors or under a covered area using minimal amounts of biodegradable detergents;~~
 - ~~e. Development of a preventive maintenance schedule to include inspections, maintenance, and cleaning of the [yard/] facility's equipment and vehicles;~~
 - ~~f. Scheduling of periodic inspections of equipment for leaks, spills, and malfunctioning or worn parts;~~
 - ~~g. Maintaining an adequate supply of dry absorbent material on-site;~~
 - ~~h. Proper disposal of used absorbent materials;~~
 - ~~i. Placement of drip pans or plastic sheets under vehicles, parts, and equipment during maintenance and dismantling;~~
 - ~~j. No use of vehicle fluids, oils, or fuel for weed control;~~
- (2) [(4)] A copy of the approved Texas Commission on Environmental Quality (TCEQ) storm water multi-sector permit for that location, [and:]
- ~~a. Copies and dates of all sampling pursuant to federal regulations taken during the past year; or~~
 - ~~b. Copies of any waivers or alternative certification to the required sampling;~~
 - ~~c. A statement that the location is not required to conduct testing for that period due to compliance with federal regulations for concentrations of pollutants, and copies of all supporting documentation and test data;~~
- (3) A San Antonio Water System (SAWS) letter of compliance regarding compliance with the Texas Pollutant Discharge Elimination System for that location dated within the last 15 months, and
- (4) A copy of the State of Texas registration as a used automotive parts recycler.

- (5) ~~Copies of all other records and permits required by the state commission on environmental quality and the Environmental Protection Agency for that location including:~~
- ~~a. TCEQ waste registration;~~
 - ~~b. EPA identification number;~~
 - ~~c. Manifests for offsite hazardous waste shipments for the last three (3) years;~~
 - ~~d. Annual waste summaries for the last three (3) years;~~
 - ~~e. Annual waste generation fee receipt;~~
 - ~~f. Contingency plan and emergency procedures;~~
 - ~~g. TCEQ pollution prevention plan;~~
 - ~~h. TCEQ annual pollution prevention progress report.~~
 - ~~i. Production of any of the records or permits listed in subsection (d) shall not be required upon presentation of certification from the appropriate agencies or entities that such records or permits are not required for that location.~~
 - ~~j. The director may require code enforcement officers to physically ascertain that documents required by subsection (d) are kept on file at the salvage yard as an alternative to the inclusion of such documents with an application. In such cases, the application must not be approved until the officers have ascertained the documents' existence. Enforcement of federal or state requirements shall remain the responsibility of the appropriate agencies.~~

~~(e) Production of any of the records or permits listed in subsection (d) shall not be required upon presentation of certification from the appropriate agencies or entities that such records or permits are not required for that location.]~~

~~(e) [(f)] The director may require code enforcement officers to physically ascertain that supportive documents of all permits [documents required by subsection (d)] are kept on file at the used automotive parts recycling business [salvage yard as an alternative to the inclusion of such documents with an application]. In such cases, the application shall [must] not be approved until the officers have ascertained the documents' existence and validity. Enforcement of federal or state requirements shall remain the responsibility of the appropriate agencies.~~

SECTION 8. Section 16-189 License fees, is renumbered as 16-190 and amended to read as follows:

Sec. 16-190. [16-189] License fees.

The annual used automotive parts recycler license fee [for each ~~salvage yard or location where junked, wrecked or inoperable vehicles are stored, licensed by this article~~] is [shall be] five hundred seventy-five dollars (\$575.00) paid to the city with the license application [for the license]. [The annual fee for each ~~metal recycler or second-hand metal dealer or location where vehicles are not stored, licensed by this article~~ shall be two

~~hundred fifty dollars (\$250.00) paid to the city with the application for the license.]~~ The fee will be refunded in the event the license is refused. The license shall cover the period from the first day of January through the last day of December of each year. Only the first year's license may be prorated for each month or fraction thereof. The fee for issuing a duplicate license for one that is lost, destroyed or mutilated shall be ten dollars (\$10.00).

SECTION 9. Section 16-190 Issuance or denial of licenses, is renumbered as 16-191 and amended to read as follows:

Sec. 16-191. ~~[16-190]~~ Issuance, renewal or denial of licenses.

(a) Annual licenses including renewals shall be issued by the director upon receipt of the prescribed fee and the completed application provided that:

(1) The applicant, including partners or officers in the case of a partnership or a corporation, has not been convicted within the previous five (5) years of two (2) or more violations of this article; and

(2) After inspection, the premises are in compliance with this article and other applicable city ordinances and codes. ~~[In the event a license is denied, the applicant may appeal this decision to the city council.]~~

(b) In the event a license including a renewal is denied, the applicant may appeal the decision to the city council.

SECTION 10. Section 16-192 Revocation of licenses, is added to read as follows:

Sec. 16-192. Revocation of licenses.

(a) The director may revoke a license if the used automobile parts recycler has accrued two (2) convictions for violating this division within a 12-month period, or three (3) convictions within an 18-month period.

(b) Failure to correct multiple issues identified in a monthly inspection report under the following provisions are grounds for the director to revoke the used automotive parts recycler's license: 16-195 Fencing; 16-196 Manner of storage; waste containment; weed and brush maintenance; fire safety path; 16-197 Motor vehicle crushing equipment or industrial devices; and 16-199 Rodent and vector control.

Exception: Sec. 16-195 (f).

(c) Revocation by the director, if such should occur, may take place only after opportunity is afforded the dealer to confer with the director.

(d) In the event a license is revoked, the used automobile parts recycler may appeal the

decision to the city council.

SECTION 11. Section 16-191 City council approval; appeal to city council, is renumbered as 16-193 and amended by re-titling as Appeal process for License Denial or Revocation and amended to read as follows:

Sec. 16-193. Appeal process for license denial or revocation. [16-191. City council approval; appeal to city council.]

License Denial

- (a) The director shall issue the applicant a written notice of a used automotive parts recycler license application denial by certified mail, return receipt requested. The denial notice shall inform the applicant of the right of appeal and of the time limit for the written notice of appeal.
- (b) The applicant shall have the right of an appeal to the City Council if requested in writing and delivered to the City Clerk within thirty (30) days after the applicant's receipt of the director's written notice of dealer's license denial. If currently licensed, an appeal from the order of the director shall stay all proceedings unless the director certifies, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by a court of proper jurisdiction. Upon disposition by City Council, any stay of proceedings is lifted.
- (c) The City Council may uphold, reverse, or modify the director's decision or action. Failure to appeal to the City Council within the prescribed period shall render the director's decision or action final.

License Revocation

- (a) The director shall issue the used automotive parts recycler written notice of license revocation by certified mail, return receipt requested. The license revocation notice shall inform the used automotive parts recycler of the right of appeal and of the time limitation for the written notice of appeal.
- (b) The used automotive parts recycler has the right of an appeal to the city council if requested in writing and delivered to the city clerk within thirty (30) days after the receipt of the director's written notice of used automotive parts recycler's license revocation. An appeal from the order of the director shall stay all proceedings unless the director certifies, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by a court of proper jurisdiction. Upon disposition by City Council, any stay of proceedings is lifted.

(c) The city council may uphold, reverse, or modify the director's decision or action. Failure to file an appeal to the city council within the prescribed period shall render the director's decision or action final. Revocation of a license may not exceed one year.

~~(a) [It shall be unlawful for any person to establish or expand any salvage yard within the city without obtaining prior approval of the city council. In granting such approval, the city council may impose conditions which the applicant must comply with before certificates of occupancy may be issued by the director of building inspections for the use of land or buildings on the property pursuant to the approval. The conditions shall not be construed as conditions precedent to the granting of approval, but shall be construed as conditions precedent to the granting of the certificates of occupancy.]~~

~~(b) The decision of the city council whether to approve the expansion or establishment of a salvage yard, as defined by this article, shall be made only after a public hearing before the council on the question at which interested parties shall have the opportunity to be heard. The housing and neighborhood services department shall mail notices to the owners of all property located within two hundred (200) feet of the area to be occupied by the new salvage yard or expansion. The notice shall state:~~

- ~~(1) The nature of the approval sought;~~
- ~~(2) The location of the requested expansion or new yard;~~
- ~~(3) The date, time, and location of the hearing; and~~
- ~~(4) That the addressee will have the opportunity to be heard regarding the requested expansion or establishment of the new salvage yard.~~

~~The rules, methods and procedures for the timing and delivery of notices and all other related notice matters shall be the same as those used whenever an application for a change in zoning is to be heard before the zoning commission.~~

~~(c) At any time a salvage yard, as defined by this article, ceases operations and the property is not used for a salvage yard for a period of one year or more, reestablishment of the use will require approval of the city council in the same manner as an expansion or establishment of a new salvage yard.~~

~~(d) The city council will not approve the establishment of a new salvage yard, as defined by this article, nor an expansion of an existing salvage yard, if the location of the new salvage yard or the expansion area is within five hundred (500) feet of a church or school building or within three hundred (300) feet of a residence (single family home, duplex, apartment, townhouse, or mobile home) if such church, school or residence is located within an A, B, C, D, E, F, G, H, R-1, R-2, R-3, R-4, R-5, R-6, O-1, B-1, B-2, or B-3 zone.~~

~~(e) Any appeal of the decision or action by the director shall be filed in writing with the city clerk within twenty (20) days of receipt of the decision or action specifying the exact grounds and reasons for the appeal. The appeal shall be heard by the city council during its next available, regularly scheduled meeting. The city council may uphold, reverse, or modify the director's decision or action. Failure to appeal to the city council within the prescribed period shall render the director's decision or action final, and in cases of license revocation, the effect shall be a forfeiture of the license, which forfeiture shall be final.]~~

SECTION 12. Section 16-192 Variances, is renumbered as 16-194 and amended to read as follows:

Sec. 16-194. ~~[16-192]~~ Variances.

The board of adjustment is authorized to grant, pursuant to the procedures set forth in Chapter 35, Unified Development Code of the City Code of San Antonio, Texas ~~[this Code]~~, a variance from the provisions of sections 16-195 and 16-196 ~~[16-193 and 16-194]~~, but only due to unique circumstances on the premises or adjacent thereto (such as topography), not created by the used automotive parts recycler ~~[dealer]~~ and not merely financial, and which are not a part of general conditions in the area, ~~provided and except, however, that existing industries within the purview of this article may expand to adjoining property without the necessity of an additional license so long as all other requirements for such expansion are met by the dealer.]~~ The board of adjustment, however, may not ~~[not in any manner]~~ grant variances to subsection 16-196(g) ~~[16-194(g)]~~ nor to conditions imposed by city council, nor to requirements set by state or federal regulations ~~[which may be listed in this article]~~.

SECTION 13. Section 16-193 Fencing, is renumbered as 16-195 and amended to read as follows:

Sec. 16-195. ~~[16-193]~~ Fencing.

- (a) All used automotive parts recycling businesses ~~must~~ ~~[salvage yards shall]~~ be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence constructed as an adequate barrier to inhibit the migration of rodents and other vectors from the used automotive parts recycling business ~~[salvage yards]~~ to an adjacent property. The wall or screen fence must ~~[shall]~~ be constructed with appropriate screen drains so as not to inhibit necessary water drainage.
- (b) The wall or screen fence must ~~[shall]~~ be constructed such that the interior of the used automotive parts recycling business ~~[salvage yard]~~ is not visible from the exterior. Buildings, equipment necessary for daily operations and salvage or non-repairable oversized vehicles as defined in Chapter 35, Unified Development Code of the City Code of San Antonio, Texas, and any piles of crushed vehicles or salvage materials in compliance with the International Fire Code, as amended by the City, are excluded

from this requirement. The wall or screen fence for used automotive parts recycling businesses [~~salvage yard~~] located within one hundred (100) feet of a property with a residence thereon must [~~shall~~] be constructed or modified so that it is eight (8) feet in height. The wall or screen fence for all other existing used automotive parts recycling businesses must be six (6) feet in height [~~other salvage yards shall be at least six (6) feet in height~~]. All used automotive parts recyclers established after the effective date of this ordinance are required to maintain fences at least (8) feet in height.

- (c) Those sections of a used automotive parts recycling business [~~salvage yard~~] which are contiguous with either another used automotive parts recycling business or any I-2 zoning district are [~~salvage yard shall be~~] exempt from subsection (b), if those sections otherwise have an adequate barrier as required by subsection (a), to inhibit the migration of rodents and other vectors between the used automotive parts recycling businesses or other contiguous I-2 zoning districts. [~~salvage yard~~].
- (d) Any section of wall or screen fence located within one hundred (100) feet of a property with a residence thereon measured from property line to property line must [~~shall~~] be constructed or modified so that it extends at least (3) inches into the ground or base surface (impervious cover). Building up the surrounding ground to cover at least the lower (3) three inches of the section of wall or screen fence complies [~~shall be considered compliance~~] with this requirement. Should water drainage be substantially affected, the procedure in section 16-194 [~~16-192~~] must [~~shall~~] be followed.
- (e) All walls or screen fences must [~~shall~~] be maintained in a neat, solid, substantial, and safe condition. No wall or screen fence must [~~shall~~] be kept in a listing, damaged, or decaying condition.
- (f) Gates for access to the used automotive parts recycling business [~~salvage yard's~~] premises at each street or alley line must [~~shall~~] not have combined openings exceeding thirty (30) percent of the alley or street frontage. All gates for access must not [~~shall~~] swing outward [~~inward~~] and must [~~shall~~] be kept closed when the used automotive parts recycling business [~~salvage yard~~] is not open for business.
- (g) The fencing requirements in this section do [~~the subsection shall~~] not apply to used automotive parts recycling business [~~salvage yards~~] conducted solely within a completely enclosed structure or structures.
- (h) In the event of a conflict between the fencing requirements of this division and the requirements of Chapter 35, Unified Development Code of the City Code of San Antonio, Texas, the most stringent requirement applies. [~~Dealers affected by this section shall have two (2) years from the date this section becomes effective to comply.~~]

SECTION 14. Section 16-194 Manner of storage; waste containment; weed and brush maintenance; fire lane, is renumbered as 16-196 and amended to read as follows:

Sec. 16-196. [~~16-194~~] Manner of storage; waste containment; weed and brush maintenance; fire safety path [~~lane~~].

- (a) Salvage materials [~~Salvage articles~~] on the premises of a used automotive parts recycling business [~~salvage yard~~] shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be had at any time by the proper fire, health, police, code enforcement, and building authorities which inspections used automotive parts recyclers [~~dealers~~] shall permit during business hours or any reasonable period afterwards [~~at any reasonable time~~]. All junked, wrecked or inoperable vehicle bodies located outside of a building [~~, if stacked,~~] shall be so stacked only with the use of metal racks or other safe, metal supports so that all bodies are at least six (6) inches above the ground or base surface and are arranged to provide ease of inspection, control of insects and rodents, and to facilitate water drainage, containment, and waste control. Neither the vehicle bodies, vehicle parts, nor other salvage materials and any scrap, used or obsolete ferrous or nonferrous metal, including regulated material [~~articles~~] shall be stored or stacked higher than the height of the used automotive parts recycling business [~~salvage yard's~~] wall or screen fence except as noted in Section 16-195(b).

Exception: stacking mandates shall not include those vehicles in initial intake/holding areas being processed prior to public access. Intake/holding areas must be fenced or otherwise sectioned off from the main yard and shall not exceed a size of 5% total acreage per certificate of occupancy. Vehicle processing includes removal of various contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste, including, but not limited to, oil, gas, Freon, mercury and biohazardous materials as required by state and federal law. An unprocessed vehicle must be labeled as such and may not be in process for greater than 14 days.

- (b) No salvage materials [~~articles~~] shall be placed in any manner outside of the used automotive parts recycling business [~~salvage yard's~~] surrounding screen fence or wall.
- (c) Premises shall be kept clean of any weeds and/or brush over twelve (12) inches tall where salvage materials [~~articles~~] are kept and/or within one hundred fifty (150) feet from the curb line of adjacent streets or the edge of the streets or road surface where no curb exists.
- (d) Upon the used automotive parts recycler's [~~salvage dealer's~~] possession of all salvage materials [~~articles~~], contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste- including Freon- shall be removed from the salvage materials [~~articles~~] and contained, stored, and disposed in compliance with all applicable state and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed

contractor. The used automotive parts recycler [~~salvage dealer~~] shall maintain on premises all completed manifests evidencing legal disposal for a period of no less than three years [~~five (5)~~] years from the date of disposal.

- (e) All storage of liquid waste shall be subject to applicable state and federal regulations. In no event shall any used automotive parts recycler [~~salvage dealer~~] maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within the City [~~this~~] Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers [~~approved by and~~] in accordance with all applicable federal, state and local laws and administrative regulations [~~the state department of transportation, the Texas Administrative Code, and fire code, and, when applicable, sufficient for the delivery to a transporter for disposal~~]. It is [~~shall be~~] unlawful for any waste to be held in a container which leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question.
- (f) All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.
- (g) All used automotive parts recycling businesses must [~~salvage yards, as defined by this article, shall~~] have a fire safety path [~~lane~~]. No salvage materials must [~~articles shall~~] be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire safety path [~~lane~~] specifications and compliance for each used automotive parts recycling business [~~salvage yard~~], and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual used automotive parts recycling business [~~salvage yard~~]. [~~A salvage yard shall be brought into compliance within one year.~~] All penalties and appellate procedures of Chapter 11 of the City Code of San Antonio, Texas shall apply to this subsection.

SECTION 15. Section 16-197 Motor Vehicle Crushing Equipment or Industrial Devices, is added to read as follows:

Sec. 16-197. Motor vehicle crushing equipment or industrial devices

- (a) Motor vehicle crushing shall be performed in compliance with TCEQ and SAWS regulations.
- (b) Motor vehicle crushing is only allowed at licensed used automotive parts recyclers or metal recycling entities.
- (c) It is unlawful for motor vehicle crushing equipment or industrial devices to operate in contradiction to this section and Chapter 21, Offenses and Miscellaneous Provisions, Article III, Noise of the City Code of San Antonio, Texas.

SECTION 16. Section 16-195 Emergency contact numbers, is renumbered as 16-198 and amended to read as follows:

Sec. 16-198. ~~[16-195]~~ Emergency contact numbers.

- (a) All persons in the business of used automotive parts recycling [~~dealers~~] shall place and maintain a sign on the premises that may be read from the street right-of-way listing the names and telephone numbers of at least one person in the county who may be called to give admittance to the premises in case of emergency.
- (b) It is unlawful to fail to place and maintain a sign as required under this section.

SECTION 17. Section 16-196 Rodent and vector control, is renumbered as 16-199 and amended to read as follows:

Sec. 16-199. ~~[16-196]~~ Rodent and vector control.

- (a) All persons in the business of used automotive parts recycling [~~salvage yards~~] shall have a rodent and vector extermination treatment covering the entire premises conducted a minimum of once every six (6) months, conducted in such a manner and utilizing such chemicals as are acceptable to the director.
- (b) A rodent and vector control program is the responsibility of the used automotive parts recycler [~~dealer~~] and shall be on-going for the duration of the used automotive parts recycling business' [~~salvage yard's~~] operation.
- (c) A code enforcement [~~compliance~~] officer shall inspect all used automotive parts recycling businesses [~~salvage yards, as defined by this article,~~] within the city a minimum of once every six (6) months for purposes under this section. At the time of the inspection, the inspector shall be provided with evidence to prove that such extermination procedure has occurred within the preceding six-month period and that the person in the business of used automotive parts recycling has an on-going program for observation, determination, and control of rodents and vectors. The

[dealer's] presentation of evidence of a service contract with a recognized and licensed pest control contractor may satisfy this requirement.

- (d) If a professional exterminator has been employed, a receipt for payment for services rendered must ~~[shall]~~ be provided. If the person ~~[dealer]~~ conducts the extermination without using a professional exterminator, the person ~~[dealer]~~ shall request health department certification at the time the extermination occurs and furnish the code enforcement ~~[compliance]~~ officer with such evidence sufficient to show that the pest control has been accomplished in an efficient manner.
- (e) It is ~~[shall be]~~ unlawful for any person ~~[dealer]~~ to fail to have the necessary rodent and vector extermination conducted in accordance herewith, and it is also ~~[shall also be]~~ unlawful to fail to present to the code enforcement ~~[compliance]~~ officer upon request the necessary verification of such effective extermination or fail to allow the required entry to the premises.

SECTION 18. Section 16-197 Monthly inspections; nuisance declared, is renumbered as 16-200 and amended to read as follows:

Sec. 16-200. ~~[16-197]~~ Monthly inspections; nuisance declared.

- (a) The Department of Development Services is authorized to conduct monthly [Monthly] inspections [shall be made] of all used automotive parts recycling businesses [salvage yards by the housing and neighborhood services department] for the purpose of assuring compliance with the terms of this division [article]. However, a code enforcement officer or peace officer may inspect used automotive parts recycling businesses upon reasonable suspicion of any wrongdoing at any time activity regulated under this ordinance is conducted. A form shall be devised by said department to be completed at the time of such inspection indicating the date the inspection occurred. This form indicating the date of the last inspection shall ~~[must]~~ be posted by the used automotive parts recycler ~~[dealer]~~ in a conspicuous place on the premises at all times.
- (b) Conditions maintained in violation of this division ~~[article]~~ which impact public health, safety, or welfare, or which deprive neighbors of their safe or peaceful use of nearby properties are ~~[shall be]~~ unlawful and a ~~[shall be deemed]~~ a public nuisance. Further, a failure to allow either monthly or other inspections or post inspections as required is unlawful.
- ~~[(c) Multiple allegations of violations of the provisions of this article shall be grounds for the director to consider revocation of the dealer's license. Revocation by the director, if such should occur, may take place only after opportunity is afforded to the dealer to confer with the director concerning the alleged violations. Revocation may be appealed to the city council.]~~

SECTION 19. Section 16-198 Time limit for compliance by newly annexed yards, is renumbered as 16-201 and retitled as Time limit for compliance by newly annexed used automotive parts recycler business operations and amended to read as follows:

Sec. 16-201. [16-198] Time limit for compliance by newly annexed used automotive parts recycling businesses. [yards]

- (a) Used automotive parts recycling businesses [~~Dealers of salvage yards~~] which are annexed into the city shall have a period of one year from the effective date of the annexation to install fencing as required by this division [~~article~~]. Used automotive parts recyclers whose businesses [~~Dealers whose salvage yards~~] are annexed shall also demonstrate compliance with existing federal, state, and county laws and regulations applicable to fencing requirements for such facilities [~~yards~~] at the date of annexation.
- (b) Subsequent to annexation, the director shall promptly notify affected used automotive parts recyclers [~~dealers~~] in newly annexed areas of the obligations under this division [~~article~~].

SECTION 20. Section 16-202 Violation and Penalties, is added to read as follows:

Sec. 16-202. Violation and penalties.

It is unlawful for a person to do or perform any act prohibited by this division, and it shall be unlawful for a person to fail to do or perform any act required by this division. A violation of this division is a class C misdemeanor offense, and upon conviction, a person shall be fined an amount not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00).

SECTION 21. DIVISION 2. RECEIPT OF REGULATED METAL PROPERTY is retitled as METAL RECYCLING ENTITIES to read as follows:

DIVISION 2. METAL RECYCLING ENTITIES [~~RECEIPT OF REGULATED METAL PROPERTY~~]

SECTION 22. Section 16-199 Definitions, is renumbered as 16-203 and amended to read as follows:

Sec. 16-203. [~~16-199~~] Definitions.

[~~For the purpose of this article, the~~] The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning: [indicated]

Best management practices means a technique or series of structural and non-structural techniques which, when used in a storm water pollution prevention plan, as required by federal law, is proven to be effective in controlling industrial related runoff.

Building construction materials means copper pipe, tubing, or wiring, aluminum wire, aluminum siding, plumbing supplies, electrical supplies, [~~window glass,~~] metal window frames, metal doors, metal door frames, metal downspouts, metal gutters, [~~lumber,~~] air conditioning units and other similar materials except for obsolete, non-regulated materials.

Chief of police means the chief of police for the city and such persons as he may designate to perform his duties under this division [~~article~~].

City means the City of San Antonio, Bexar County, Texas.

Clear thumbprint impression means an intentional recording of the friction ridge detail on the volar pads of the thumb.

[~~Dealer means both secondary metals recyclers and secondhand metal dealers collectively.~~]

Department means the department of development services.

Director means the director of the development [~~housing and neighborhood~~] services department [~~for the city~~].

Hazardous Material means any hazardous or toxic substance, material, or waste which is or becomes regulated by any governmental authority of the State of Texas or the United States government, including without limitation, any material or substance which (i) is defined or listed as a "hazardous material," "toxic pollutant," "hazardous waste,"

"hazardous substance," or "hazardous pollutant" under applicable federal, state, or local law or administrative code promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gasoline, oil, and similar petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains polychlorinated biphenyls ("PCBs"), or (v) contains radioactive materials.

~~[Licensee means a person who holds a license to conduct business as a scrap metal processor or secondhand dealer].~~

~~*Metal recycling entity* means a business that is predominately engaged in the following and excludes used automotive parts recycling businesses. [anyone, who from a fixed location engages in the business of utilizing machinery or equipment for the processing of or manufacturing of iron, steel or nonferrous metallic scrap and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for re-melting purposes.]~~

- (A) Performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;
- (B) The use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or
- (C) Purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

Minor means any person younger than ~~[under]~~ eighteen (18) years of age.

Motor vehicle means any motor driven or propelled vehicle required to be registered under the laws of this state; a trailer or semitrailer, other than manufactured housing, that has a gross weight that exceeds 4,000 pounds; a house trailer; an all-terrain vehicle, as defined by Texas Transportation Code, §502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course. Any metals comprising a motor vehicle are not *regulated materials* as defined in this Article.

Non-repairable motor vehicle means a motor vehicle that:

- (A) Is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or

(B) Comes into this state under a title or other ownership document that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

Person means an individual, corporation, partnership or any other group acting as a unit.

Real-time electronic web-based database means an electronic filing system in which data is organized by fields and records and that is capable of transmitting a file or responding to input immediately via the Internet.

Regulated material means aluminum material, bronze material, copper or brass material, or regulated metal.

Regulated metal means manhole covers; guardrails; metal cylinders designed to contain compressed air, oxygen, gases or liquids; beer kegs made from metal other than aluminum; historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum; unused rebar; street signs; drain gates; safes; communication, transmission, and service wire or cable; condensing or evaporator coils for central heating or air conditioning units; utility structures, including the fixtures and hardware; aluminum or stainless steel containers designed to hold propane for fueling forklifts; metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions; catalytic converters not attached to a vehicle; fire hydrants; metal bleachers or other seating facilities used in recreational areas or sporting arenas; any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad; insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation; backflow valves; and metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

Salvage materials [~~means and~~] refers to any motor vehicle, salvage motor vehicle, non-repairable motor vehicle and all their respective parts, scrap, used or obsolete ferrous and nonferrous metals, and regulated materials and regulated metals as defined in this division. [~~secondhand worn out, cast off, or discarded article or material (including but not limited to bodies, parts, and sections of junked, wrecked, or inoperable vehicles, airplanes, and boats) ready for destruction, or collected or stored for dismantling, conversion, or removal of parts; and shall include any article kept for more than sixty (60) days for the purpose of its repair.~~]

Salvage motor vehicle means

(A) A motor vehicle that:

(i) Has damage to or is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials

and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage; or

(ii) Is damaged and that comes into this state under an out-of-state salvage motor vehicle certificate of title or similar out-of-state ownership document that states on its face “accident damage,” “flood damage,” “inoperable,” “rebuildable,” “salvageable,” or similar notion; and

(B) Does not include 1) a non-repairable motor vehicle; 2) an out-of-state motor vehicle with a “rebuilt,” “prior salvage,” “salvaged,” or similar notation; or 3) a motor vehicle for which an insurance company has paid a claim for:

(i) The cost of repairing hail damage; or

(ii) Theft, unless the motor vehicle was damaged during the theft and before recovery to the extent described by subparagraph (A)(i).

~~[Secondary metals recycler means any person who, directly or through an agent, manager, or employee, purchases or receives scrap metal which is therefore subjected to two (2) or more of the following:~~

- ~~(1) Sorting or classifying;~~
- ~~(2) Cleaning;~~
- ~~(3) Baling or wrapping;~~
- ~~(4) Cutting, shredding, or shearing; or~~
- ~~(5) Changing the physical form or chemical content thereof as needed for the manufacturing of new metal items.]~~

~~[Secondhand metal dealer means a person other than a secondary metals recycler, who personally or through managers, agents, and/or employees, purchases or receives scrap or other metal items that are offered for sale.]~~

~~[Used means any items, goods, products, wares, chattels, or articles of any sort which have previously been owned by someone other than the manufacturer, or a dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the consumer.]~~

Used Automotive Parts Recycler means a person licensed under this division to operate a used automotive parts recycling business.

Used Automotive Parts Recycling means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or non-repairable motor vehicles, including the resale of those vehicles.

SECTION 23. Section 16-200 Administrative rules, is deleted in its entirety:

~~**Sec. 16-200. Administrative rules.**~~

~~The director and the chief of police shall promulgate rules and regulations to administer the provisions of this article. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary, the office of the chief of police and the office of the director. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law. Failure to comply with any of the promulgated rules or regulations established under this subsection shall be grounds for the revocation of or the refusal to issue or renew any license required [of the owner or operator of a metal recycling, secondhand metal or secondhand business] under this Code. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.]~~

SECTION 24. 16-204 Zoning requirement, is added to read as follows:

Sec. 16-204. Zoning requirement.

- (a) Proper zoning is required for the establishment or expansion of a use as required by Chapter 35, Unified Development Code of the City Code of San Antonio, Texas.
- (b) In granting any required specific use authorization, the City Council may impose conditions that the applicant must comply with prior to issuance of a license and a certificate of occupancy by the director of development services for the use of land or buildings on the property pursuant to the approval. City Council imposed conditions shall not be construed as conditions precedent to the granting of specific use authorization, but shall be construed as conditions precedent to the granting of a license and certificate of occupancy.
- (c) It is unlawful to own or operate a metal recycling entity without the appropriate zoning classification.

SECTION 25. Section 16-205 License required, is added to read as follows:

Sec. 16-205. License required.

- (a) A person shall not own or operate a metal recycling entity without a valid city issued metal recycling entity license. A used automotive parts recycler license is required in addition to a metal recycling entity license under subsection (b) below.
- (b) A person shall not dismantle and reuse or resell used automotive parts without a city issued used automotive parts recycler license.

- (c) A person commits an offense under this division if they do not hold a city valid license. Under V.T.C.A., Occupations Code § 1956.003, such an offense is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted, in which event the offense is a Class A misdemeanor.

SECTION 26. Section 16-206 Application for license, is added to read as follows:

Sec. 16-206. Application for license.

- (a) An application for a license to operate a metal recycling entity must be made in writing to the director on a form prescribed by the director and shall, among other things, contain:
- (1) The name, residence, and business address of the applicant (this information shall be listed for each member of the partnership and for each officer of a corporation);
 - (2) The name and nature of the proposed operation; and
 - (3) The present zoning, address, and legal description of the premises for which application is being applied.
- (b) All applications must contain the following statement:
"The license applied for shall be subject to all provisions of the codes and ordinances of the city relating to metal recycling entities as well as all state and federal regulations relating to such operations."
- (d) All applications must be signed and sworn to by the party applying for the license (by a general partner of a partnership and by an officer of a corporation) before a notary public or other official authorized to administer oaths.
- (e) The application must include:
- (1) A copy of the national pollutant discharge elimination system discharge permit or notice of coverage for that location if required;
 - (2) A copy of the approved Texas Commission on Environmental Quality (TCEQ) storm water multi-sector permit for that location; and
 - (3) A SAWS letter of compliance with the Texas Pollutant Discharge Elimination System for that location dated within the last 15 months; and
 - (4) A copy of the State of Texas registration as a metal recycling entity
- (f) The director may require code enforcement officers to physically ascertain that supportive documents of all permits are kept on file at the metal recycling entity. In such cases, the application shall not be approved until the officers have ascertained the documents' existence and validity. Enforcement of federal or state requirements shall remain the responsibility of the appropriate agencies.

SECTION 27. Section 16-207 License fees, is added to read as follows:

Sec. 16-207. License fees.

The annual metal recycling entity license fee shall be two hundred fifty dollars (\$250.00) paid to the city with the license application. The fee will be refunded in the event the license is refused. The license shall cover the period from the first day of January through the last day of December of each year. Only the first year's license may be prorated for each month or fraction thereof. The fee for issuing a duplicate license for one that is lost, destroyed or mutilated shall be ten dollars (\$10.00).

SECTION 28. Section 16-208 Issuance, renewal or denial of licenses, is added to read as follows:

Sec. 16-208. Issuance, renewal or denial of licenses.

- (a) Annual licenses shall be issued by the director upon receipt of the prescribed fee and the completed application, provided that:
- (1) The applicant, including partners or officers in the case of a partnership or a corporation, has not been convicted within the previous five (5) years of two (2) or more violations of this division; and
 - (2) After inspection, the premises are in compliance with this division and other applicable city ordinances and codes.
- (b) In the event a license is denied, the applicant may appeal this decision to the city council.

SECTION 29. Section 16-209 Revocation of licenses, is added to read as follows:

Sec. 16-209. Revocation of licenses.

- (a) The director may revoke a license if the license holder has accrued two (2) convictions for violating this division within a 12-month period, or three (3) convictions within an 18-month period.
- (b) Failure to correct multiple issues identified in a monthly inspection report under the following provisions is grounds for the director to revoke the metal recycling entity's license: 16-212 Fencing; 16-213 Manner of storage; waste containment; weed and brush maintenance; fire safety path; 16-214 Motor vehicle crushing equipment or industrial devices; 16-216 Rodent and vector control.

Exception: Sec. 16-213(f).

- (c) Section 16-223, Stock to be open for examination, requires that the stock or inventory of any metal recycling entity shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the director's office. Failure to comply with Section 16-223 is grounds for the revocation of or the refusal to issue or renew any license required of a metal recycling entity under this division.
- (d) Section 16-225, Acceptance of property suspected stolen; peace officer requested holds; violation, provides that a failure to comply is grounds for the revocation of or the refusal to issue or renew any license required of a metal recycling entity. Section 16-225 applies solely to Division 2.
- (e) Revocation by the director, if such should occur, may take place only after opportunity is afforded the dealer to confer with the director.
- (f) In the event a license is revoked, the license holder may appeal this decision to the city council.

SECTION 30. Section 16-210 Appeal process for license denial or revocation, is added to read as follows:

Sec. 16-210. Appeal process for license denial or revocation.

License Denial

- (a) The director shall issue a written notice of a metal recycling entity license denial to the applicant by certified mail, return receipt requested. The denial notice shall inform the applicant of the right of appeal and of the time limit for the written notice of appeal.
- (b) The applicant shall have the right of an appeal to the city council if requested in writing and delivered to the City Clerk within thirty (30) days after the applicant's receipt of the director's written notice of license denial. If currently licensed, an appeal from the order of the director shall stay all proceedings unless the director certifies, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by a court of proper jurisdiction. Upon disposition by City Council, any stay of proceedings is lifted.
- (c) The city council may uphold, reverse, or modify the director's decision or action. Failure to appeal to the city council within the prescribed period shall render the director's decision or action final.

License Revocation

- (a) The director shall issue the metal recycling entity a written notice of license revocation by certified mail, return receipt requested. The revocation notice shall inform the metal recycling entity of the right of appeal and of the time limit for the written notice of appeal. The revocation shall become final on the 31st day after the metal recycling entity's receipt of said notice unless an appeal is properly filed.
- (b) The metal recycling entity has the right of an appeal to the city council if requested in writing and delivered to the City Clerk within thirty (30) days after the receipt of the director's written notice of metal recycling entity license revocation. An appeal from the order of the director shall stay all proceedings unless the director certifies, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by a court of proper jurisdiction. Upon disposition by City Council, any stay of proceedings is lifted.
- (c) The city council may uphold, reverse, or modify the director's decision or action. Failure to file an appeal to the city council within the prescribed period shall render the director's decision or action final.

SECTION 31. Section 16-211 Variances, is added to read as follows:

Sec. 16-211. Variances.

The board of adjustment is authorized to grant, pursuant to the procedures set forth in Chapter 35, Unified Development Code of the City Code of San Antonio, Texas, a variance from the provisions of sections 16-212 and 16-213, but only due to unique circumstances on the premises or adjacent thereto (such as topography), not created by the dealer and not merely financial, and which are not a part of general conditions in the area. The board of adjustment, however, may not grant variances to subsection 16-213(g) nor to imposed conditions set forth by city council, nor to requirements set by state or federal regulations [~~which may be listed in this division~~].

SECTION 32. Section 16-212 Fencing, is added to read as follows:

Sec. 16-212. Fencing.

- (a) All metal recycling entities must be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence constructed as an adequate barrier to inhibit the migration of rodents and other vectors from the metal recycling entity to an adjacent property. The wall or screen fence must be constructed with appropriate screen drains so as not to inhibit necessary water drainage.
- (b) The wall or screen fence must be constructed such that the interior of the metal recycling entity is not visible from the exterior. Buildings, salvage or non-repairable oversized vehicles as defined in Chapter 35, Unified Development Code of the City

Code of San Antonio, Texas, and any piles of crushed vehicles or salvage materials in compliance with the International Fire Code, as amended by the City, are excluded from this requirement. The wall or screen fence for metal recycling entities located within one hundred (100) feet of a property with a residence thereon must be constructed or modified so that it is eight (8) feet in height. The wall or screen fence for all other existing metal recycling entities must be six (6) feet in height. All metal recycling entities established after the effective date of this ordinance change are required to maintain fences at least eight (8) feet in height.

- (c) Those sections of a metal recycling entity which are contiguous with another metal recycling entity or any I-2 zoning district are exempt from subsection (b), if those sections otherwise have an adequate barrier as required by subsection (a), to inhibit the migration of rodents and other vectors between the metal recycling entities or other contiguous I-2 zoning districts.
- (d) Any section of wall or screen fence located within one hundred (100) feet of a property with a residence thereon measured from property line to property line shall be constructed or modified so that it extends at least (3) inches into the ground or base surface (impervious cover). Building up the surrounding ground to cover at least the lower (3) three inches of the section of wall or screen fence shall be considered compliance with this requirement. Should water drainage be substantially affected, the procedure in section 16-211 shall be followed.
- (e) All walls or screen fences shall be maintained in a neat, solid, substantial, and safe condition. No wall or screen fence shall be kept in a listing, damaged, or decaying condition.
- (f) Gates for access to the metal recycling entity's premises at each street or alley line must not have combined openings exceeding thirty (30) percent of the alley or street frontage. All gates for access must not swing outward and must be kept closed when the metal recycling entity is not open for business. This will not apply to access points on a railroad right-of-way.
- (g) The fencing requirements in this subsection do not apply to metal recycling entities whose business is conducted solely within a completely enclosed structure or structures.
- (h) In the event of a conflict between the fencing requirements of this division and the requirements of Chapter 35, Unified Development Code of the City Code of San Antonio, Texas, the most stringent requirement applies.

SECTION 33. Section 16-213 Manner of storage; waste containment; weed and brush maintenance; fire safety path, is added to read as follows:

Sec. 16-213. Manner of storage; waste containment; weed and brush maintenance; fire safety path.

- (a) Salvage materials on the premises of a metal recycling entity shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be had at any time by the proper fire, health, police, code enforcement, and building authorities which inspections dealers shall permit during business hours or any reasonable period afterwards.
- (b) No salvage materials shall be placed in any manner outside of the metal recycling entity's surrounding screen fence or wall.
- (c) Premises shall be kept clean of any weeds and/or brush over twelve (12) inches tall where salvage materials are kept and/or within one hundred fifty (150) feet from the curb line of adjacent streets or the edge of the streets or road surface where no curb exists.
- (d) Upon the metal recycling entity's possession of all salvage materials, contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste - including Freon - shall be removed from the salvage materials and contained, stored, and disposed in compliance with all applicable state and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The metal recycling entity shall maintain on premises all completed manifests evidencing legal disposal for a period of three years from the date of disposal.
- (e) All storage of liquid waste shall be subject to applicable local, state and federal regulations. In no event shall any metal recycling entity maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within the City Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers in accordance with applicable federal, state and local laws and administrative regulations. It is unlawful for any waste to be held in a container that leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question.
- (f) All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.
- (g) All metal recycling entities, as defined by this division, shall have a fire safety path. No salvage materials shall be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire safety path specifications and compliance for each metal recycling entity and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual

metal recycling entity. All penalties and appellate procedures of chapter 11 of the City Code of San Antonio, Texas, shall apply to this subsection.

SECTION 34. Section 16-214 Motor Vehicle Crushing, is added to read as follows:

Sec. 16-214. Motor vehicle crushing equipment or industrial devices

- (a) Motor vehicle crushing shall be performed in compliance with TCEQ and SAWS regulations.
- (b) Motor vehicle crushing is only allowed at licensed used automotive parts recyclers or metal recycling entities.
- (c) It is unlawful for motor vehicle crushing equipment or industrial devices to operate in contradiction to this section and Chapter 21, Offenses and Miscellaneous Provisions, Article III, Noise of the City Code of San Antonio, Texas.

SECTION 35. Section 16-215 Emergency contact numbers, is added to read as follows:

Sec. 16-215. Emergency contact numbers.

- (a) All metal recycling entities shall place and maintain a sign on the premises that may be read from the street right-of-way listing the names and telephone numbers of at least one person in the county who may be called to give admittance to the premises in case of emergency.
- (b) It is unlawful to fail to place and maintain a sign as required under this section.

SECTION 36. Section 16-216 Rodent and vector control, is added to read as follows:

Sec. 16-216. Rodent and vector control.

- (a) All persons owning or operating metal recycling entities shall have a rodent and vector extermination treatment covering the entire premises conducted a minimum of once every six (6) months, conducted in such a manner and utilizing such chemicals as are acceptable to the director.
- (b) A rodent and vector control program is the responsibility of all persons owning or operating a metal recycling entity and shall be on-going for the duration of the metal recycling entity's operation.
- (c) A code enforcement officer shall inspect all metal recycling entities, as defined by this division, within the city a minimum of once every six (6) months. At the time of the inspection, the inspector shall be provided with evidence to prove that such extermination procedure has occurred within the preceding six-month period and that

the person who owns or operates a metal recycling entity has an on-going program for observation, determination, and control of rodents and vectors. The presentation of evidence of a service contract with a recognized and licensed pest control contractor may satisfy this requirement.

- (d) If a professional exterminator has been employed, a receipt for payment for services rendered shall be provided. If the person conducts the extermination without using a professional exterminator, the person shall request health department certification at the time the extermination occurs and furnish the code enforcement officer with such evidence sufficient to show that the control has been accomplished in an efficient manner.
- (e) It is unlawful for any person to fail to have the necessary rodent and vector extermination conducted in accordance herewith, and it is also unlawful to fail to present to the code enforcement officer upon request the necessary verification of such effective extermination or allow the required entry to the premises.

SECTION 37. Section 16-217 Monthly inspections; nuisance declared, is added to read as follows:

Sec. 16-217. Monthly inspections; nuisance declared.

- (a) The Development Services Department is authorized to conduct monthly inspections of all metal recycling entities for the purpose of assuring compliance with the terms of this division. However, a code enforcement officer or peace officer may inspect a metal recycling entity upon reasonable suspicion of any wrongdoing at any time activity regulated under this ordinance is conducted. A form shall be devised by said department to be completed at the time of such inspections indicating the date the inspections occurred. This form indicating the date of the last inspection shall be posted by the metal recycler in a conspicuous place on the premises at all times.
- (b) Conditions maintained in violation of this division which impact public health, safety, or welfare, or which deprive neighbors of their safe or peaceful use of nearby properties shall be unlawful and shall be deemed a public nuisance. Further, a failure to allow either monthly or other inspections or post inspections as required is unlawful.

SECTION 38. Section 16-218 Time limit for compliance by newly annexed metal recycling entities, is added to read as follows:

Sec. 16-218. Time limit for compliance by newly annexed metal recycling entities.

- (a) Metal recycling entity businesses which are annexed into the city shall have a period of one year from the effective date of the annexation to install fencing as required by this division. Persons whose metal recycling entities are annexed shall also

demonstrate compliance with existing federal, state, and county laws and regulations applicable to fencing requirements for such facilities at the date of annexation.

(b) Subsequent to annexation, the director shall promptly notify affected license holders in newly annexed areas of the obligations under this division.

(c) It is unlawful for a person to fail to install fencing or demonstrate federal, state and county legal compliance as required under this section.

SECTION 39. Section 16-201 Records required to be kept by metal recycling entities, and secondhand metal dealers, is renumbered as 16-219, retitled, and amended to read as follows:

Sec. 16-219. [16-201.] Records required to be kept by metal recycling entities as to regulated material [,-and-secondhand-metal-dealers].

(a) The provisions of this section apply to all business carried on at a single location. With the exception of the sale or transfer of aluminum cans, a person who owns or operates a metal recycling entity [~~or second-hand metal dealer~~] shall keep at the [his] place of business a record in a real-time electronic web-based database, in a form and method approved by the chief of police, in which it shall be entered daily [~~he shall enter daily~~], in English, a full description of each transaction in which personal property is purchased or otherwise received at the [his] place of business. Such description shall include:

- (1) The date and time of receipt of any item;
- (2) The full name and current address of the person or place of business from which [~~whom~~] each item was received;
- (3) A clear thumbprint impression from the person seeking to transfer, sell or otherwise give the items that are the subject of each transaction;
- (4) Verified evidence that the person transferring, selling or otherwise giving the items is at least eighteen (18) years of age by presentation of valid identification, including a photograph of the face of person transferring, selling or otherwise giving the item, in the form of:
 - a. A current driver's license from Texas or another state within the United States;
 - b. An identification card issued by the state department of public safety; or
 - c. United States military identification.
- (5) A description of the salvage vehicle and/or trailer or other mode of transportation in or on which each item received was carried to, delivered or transported to the metal recycling entity including state and license plate number, if applicable;
- (6) The individual transaction number assigned by the metal recycling entity to each item received;

- (7) A description of the items received as part of the transaction including, where customary in the business, the size, weight, material, and any other designations or descriptions customarily employed in the sale and purchase of such items;
 - (8) A digital photo of the seller, and digital photograph of items received;
 - (9) The name or employee number of the employee who facilitates or conducts the transaction.
- (b) The real-time electronic web-based database described in subsection (a) shall be created and maintained by the police department. The person who owns or operates the metal recycling entity or its agents or employees shall forward the required record and descriptions set forth in subsection (a) in an electronic format to the designated police department web site before the close of business on each day on which the metal recycling entity is open for business. Failure to comply with any provision of this section is unlawful and punishable as provided for in this division and is [shall be] grounds for the revocation of or the refusal to issue or renew any license required of a metal recycling entity under this Code. [~~Any person violating any provision of this section shall be punished as provided by section 16-210.3.~~]
- (c) The person who owns or operates a metal recycling entity [~~or secondhand metal dealer, his~~] or agents or employees of such entity shall maintain copies of [obtain a] consecutively numbered receipts provided to [from] the seller or transferor of the property. Such receipt shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. A printed version of the record input and transmitted to the real-time electronic web-based database as described in this section shall satisfy this requirement. An accurate copy or record of receipts obtained shall be retained for a period of not less than one year.
- (d) A person who owns or operates the metal recycling entity or the agents or employees [~~or secondhand metal dealer~~] shall, upon request, submit and exhibit the various business records that are required to be maintained under this section for inspection or copying by any peace officer or authorized inspector of the director. Failure to maintain or to so permit the examination or copying of such records when requested is unlawful and punishable as provided under this division. [~~shall be a misdemeanor offense punishable as specified in section 16-210.3.~~]
- (e) The metal recycling entity [~~or secondhand metal dealer~~] shall be on-line with the real-time database within (90) ninety days of the approval and signing of the ordinance from which this division derives by the city council. All other sections of this division [~~article~~] will be immediately enforced upon the approval and signing of the ordinance from which this division [~~article~~] derives by city council.

SECTION 40. Section 16-202 Government or utility property, is renumbered as 16-220 and amended to read as follows:

Sec. 16-220. [~~16-202~~] Government or utility property.

- (a) It is unlawful for any person who owns or operates a metal recycling entity [~~or secondhand metal dealer~~], or [~~his~~] agents or employees of said entity to purchase or receive an item of property, including but not limited to street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, on which are written or affixed the words "Property of the City of San Antonio" or other words or markings demonstrating ownership by the city except in the following circumstances:
- (1) Where the person offering such property for sale is an employee of the city authorized by the director to make such a sale and provides the person who owns or operates a metal recycling entity [~~or secondhand metal dealer~~, ~~his~~] or agents or employees of said entity with a written authorization from the city manager [~~treasurer~~] for the sale of such property; or
 - (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the director evidencing the purchase of such property by the person offering such property; or [-]
 - (3) Where the person offering such property for sale presents at the time of such offer a valid authorization for the disposal of "surplus", "salvage", "scrap", and "e-waste" in accordance with the City Procurement Policy and Procedures Manual as part of a contract signed by the director responsible for the associated project.
- (b) It is unlawful for any person who owns or operates a metal recycling entity [~~or secondhand metal dealer~~, ~~his~~] or agents or employees of said entity to purchase or receive an item of property that is marked with any form of the name or initials of a governmental agency, including but not limited to the state and the United States of America and their agencies and political subdivisions or that the person who owns or operates a metal recycling entity [~~or secondhand metal dealer~~, ~~his~~] or agents or employees of said entity know or should reasonably be expected to know belongs to a governmental agency, including but not limited to street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, except:
- (1) Where the person offering such property for sale is an employee of the governmental agency authorized by that agency to make such a sale and provides the person who owns or operates a metal recycling entity [~~or secondhand metal dealer~~, ~~his~~] or agents or employees of said entity with a written authorization from the agency for the sale of such property; or
 - (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the governmental agency evidencing the purchase of such property by the person offering such property; or [-]
 - (3) Where the person offering such property for sale presents at the time of such offer a valid authorization for the disposal of "surplus", "salvage", "scrap", and "e-waste" or analogous concepts in accordance with established policies

and procedures as part of a contract signed by the agency director responsible for the associated project.

- (c) It is ~~is~~ [shall be] unlawful for any person who owns or operates a metal recycling entity ~~[or secondhand metal dealer, his]~~ or agents or employees of said entity to purchase or receive an item of property that is~~is~~ [is] marked with any form of the name or initials of an electrical, telephone, cable, or other public utility company or that the person who owns or operates the metal recycling entity ~~[or secondhand metal dealer, his]~~ or agents or employees of said entity know or should reasonably be expected to know belongs to a public utility unless the person offering such property for sale presents at the time of such offer a valid receipt from the public utility company evidencing the purchase of such property by the person offering such property or a contractual agreement signed by the director of the public utility company authorizing the sale and disposal of “surplus”, “salvage”, “scrap”, and “e-waste” or analogous concepts in accordance with established policies and procedures.

SECTION 41. Section 16-203 Acceptance of building construction materials, is renumbered as 16-221 and amended to read as follows:

Sec. 16-221. ~~[16-203]~~ Acceptance of building construction materials.

- (a) It is ~~is~~ [shall be] unlawful for any person who owns or operates a metal recycling entity ~~[or secondhand metal dealer,]~~ or agents or employees of said entity to receive, sell, dismantle, deface or in any manner alter or dispose of any building construction material ~~[received by him at his licensed place of business]~~ unless compliance is made [he complies] with [the provisions of] sections 16-219 and 16-224.
- (b) It is ~~is~~ [shall be] unlawful for any person who owns or operates a metal recycling entity ~~[or secondhand metal dealer,]~~ or agents or employees of said entity to receive, sell, dismantle, deface or in any manner alter or dispose of any building construction material unless ~~[received by him at his licensed place of business unless prior to receiving, selling, dismantling, defacing or in any manner altering or disposing of any building construction material,]~~ the person who owns or operates the metal recycling entity [or secondhand metal dealer:] or agents or employees of said entity:
- (1) Records, along with the description of the property, the serial number, or other identifying characteristics of each part or piece of building construction material; or [and]
 - (2) Obtains a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer, that property. ~~[Any person violating any provision of this section shall be punished as provided by section 16-210.3.]~~

SECTION 42. Section 16-204 Acceptance of air conditioning unit parts, is renumbered as 16-222 and amended to read as follows:

Sec. 16-222. [~~16-204~~] Acceptance of air conditioning unit parts.

~~[It shall be unlawful for any metal recycling entity, secondhand metal dealer or secondhand dealer, his agents or employees to purchase or receive any nonferrous central air conditioning unit parts to include air conditioning window units from any person offering such property for sale unless the person presents an original copy of a reclamation receipt or recovery receipt issued by a state or city licensed mechanical contractor that recovered the Freon from the unit which is being sold.~~

~~(1) Where the person offering such property for sale is an employee of the governmental agency authorized by that agency to make such a sale and provides the metal recycling entity or secondhand metal dealer, his agents or employees with a written authorization from the agency for the sale of such property; or~~

~~(2) Where the person offering such property for sale presents the person who owns or operates the metal recycling entity or the agents or employees a valid receipt from the governmental agency evidencing the purchase of such property.~~

~~(3) The person offering the property for sale is the manufacturer of air conditioning units, or a licensed recycler in the business of purchasing air conditioning parts to include air conditioning window units must provide a certificate of reclamation or recovery certificate to the metal recycling entity, secondhand metal dealer, his agents or employees in order to resell the units to the metal recycling entity, secondhand metal dealer, his employees or his agents.]~~

(a) If regulated material being offered for sale includes condensing or evaporator coils for central heating or air conditioning units, the person offering it for sale must display:

(1) their air conditioning and refrigeration contractor license issued under V.T.C.A., Occupations Code Subchapter F or G, Chapter 1302; or

(2) their air conditioning and refrigeration technician registration issued under V.T.C.A., Occupations Code Subchapter K, Chapter 1302; or

(3) a receipt, bill of sale, or other documentation showing that they purchased the coils they're attempting to sell; or

(4) a receipt, bill of sale, or other documentation showing that they purchased a replacement heating or air conditioning unit.

SECTION 43. Section 16-205 Stock to be open for inspection, is renumbered as 16-223 and amended to read as follows:

Sec. 16-223. [~~16-205~~] Stock to be open for examination.

The stock or inventory of any metal recycling entity [~~secondhand metal dealer, or secondhand dealer~~] shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the director's office. Failure to comply with any provision of this section, in addition to being unlawful and punishable as provided in this division, shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycling entity [~~secondhand metal dealer or secondhand dealer~~] under this division. [~~Code. Any person violating any provision of this section shall be punished as provided by section 16-210.3.~~]

SECTION 44. Section 16-206 Articles to be retained at least seventy-two (72) hours; tag; exceptions, is renumbered as 16-224 and amended to read as follows:

Sec. 16-224. [~~16-206~~] Articles to be retained at least seventy-two (72) hours; tag; exceptions.

- (a) Notwithstanding the provisions of subsections (b) and (c), it is unlawful for any person who owns or operates a [~~no~~] metal recycling entity to [~~or secondhand metal dealer shall~~] process, dismantle or in any manner alter, dispose of, sell or remove from the premise [~~sell, dismantle, deface or in any manner alter or dispose of~~] any regulated metal purchased or otherwise received at the [~~by him at his~~] licensed place of business for seventy-two (72) hours after receipt, excluding weekends and holidays, provided that there is no requirement [~~he is not required~~] to keep aluminum cans for more than twenty-four (24) hours. During such 72-hour period, all items of property shall be stored or displayed at the [~~dealer's~~] business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the database. Such property shall not be kept in such a manner so as to prevent or impede its[;] examination.
- (b) A peace officer with [~~who has~~] reasonable suspicion to believe that an item of regulated material in the possession of a metal recycling entity [~~or a secondhand metal dealer~~] is stolen may place the item on hold in the manner provided by V.T.C.A., Occupations Code § 1956.037.
- (c) Exceptions. A person who owns or operates a metal recycling entity or an agent or employee of said entity is not required to comply with the provisions of this section if the person who owns or operates a metal recycling entity or agent or employee of said entity verifies that the person or entity seeking to sell or otherwise transfer the metal items has one of the following licenses or permits to establish that he is a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of [~~its~~] business:

~~[(1) The metal items are not in their original packaging in which case the metal recycling entity must comply with section;]~~

(1) ~~[(2)]~~ A valid city-issued metal recycling entity ~~[or secondhand metal dealer]~~ license, which the metal recycling entity ~~[or secondhand metal dealer]~~ shall record by photocopying the license or recording the license number in connection with the sale and maintain for a period of not less than three (3) years; or

(2) ~~[(3)]~~ A valid city-issued construction, demolition, or electrical permit, which the metal recycling entity ~~[or secondhand metal dealer]~~ shall record by photocopying the permit or recording the project number located on the permit in connection with the sale and maintain for a period of not less than one year.

SECTION 45. Section 16-207 Acceptance of property suspected stolen; peace officer requested holds; violation, is renumbered as 16-225 amended to read as follows:

Sec. 16-225. ~~[16-207]~~ Acceptance of property suspected stolen; peace officer requested holds; violation.

(a) It is ~~[shall be]~~ the duty of every person who owns or operates a metal recycling entity ~~[or secondhand metal dealer, his]~~ or the agents or employees of said entity to report immediately to the police department, by filing a formal complaint, any offer to sell to the person who owns or operates the metal recycling entity ~~[or secondhand metal dealer, his]~~ or the agents or employees of said entity, property that such person who owns or operates the metal recycling entity ~~[or secondhand metal dealer, his]~~, or agents[;] or employees of said entity have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such person who owns or operates the metal recycling entity ~~[or secondhand metal dealer, his]~~ or the agents[;] or employees ~~[;]~~ of said entity shall also report any property acquired by the person who owns or operates the metal recycling entity ~~[or secondhand metal dealer]~~, that the person who owns or operates the metal recycling entity ~~[or secondhand metal dealer or, his]~~ or agents or employees[;] subsequently determine or reasonably suspect to be stolen property, and the person who owns or operates metal recycling entity ~~[or secondhand metal dealer, his]~~, or agents or employees[;] shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It is ~~[Notwithstanding the provisions of section 16-206, it shall be]~~ the duty of every person who owns or operates a metal recycling entity ~~[or secondhand metal dealer, his]~~ or agents or employees to hold all suspected stolen property in a secure place for sixty (60) days upon request by a peace officer. The person who owns or operates a metal recycling entity ~~[or secondhand metal dealer, his]~~ or agents or employees, may not process or remove the property from the ~~[dealer(s) or entity(ies)]~~ premises before

the 60th day after receipt of the request from a peace officer to hold the property unless the hold is released at an earlier time in writing by a peace officer of this state or a court order. [∴]

~~[(1)The item is released into a peace officer's care, custody and control at an earlier time;~~

~~(2)A peace officer releases the hold on the property upon an earlier date;~~

~~(3)A peace officer makes a written request to extend the holding period for up to twenty four (24) months from the date the request is received; or~~

~~(4)A court orders release of the property.]~~

- (c) Failure to comply with any provision of this section ~~[shall be]~~ is unlawful and punishable as provided in this division and grounds for the revocation of or the refusal to issue or renew any license required of a metal recycling entity ~~[or secondhand metal dealer]~~ under this division. ~~[Code. Any person violating any provision of this section shall be punished as provided by section 16-210.3.]~~

SECTION 46. Section 16-208 Facsimile, telecopy, or similar equipment required, is renumbered as 16-226 and amended to read as follows:

Sec. 16-226. ~~[16-208]~~ Facsimile, telecopy, or similar equipment required.

A person who owns or operates a metal recycling entity ~~[secondary metals recycler or secondhand metal dealer]~~ shall maintain at the [its] place of business, or otherwise have immediate access to, a facsimile, telecopy, or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the police department. The equipment must be operable at all times during the usual and customary business hours of the metal recycling entity ~~[secondary metals recycler or secondhand metal dealer]~~. The person who owns or operates a metal recycling entity ~~[secondary metals recycler or secondhand metal dealer]~~ shall maintain the facsimile number or other access number of the equipment on file with the chief of police and shall notify the chief of police within twenty-four (24) hours after any change in the number. Failure to comply with this section is unlawful and punishable as provided in this division. ~~[Any person violating any provision of this section shall be punished as provided by section 16-210.3].~~

SECTION 47. Section 16-209 Purchasing or receiving goods from minors, is renumbered as 16-227 and amended to read as follows:

Sec. 16-227. ~~[16-209]~~ Purchasing or receiving goods from minors.

- (a) It is unlawful for any person who owns or operates a metal recycling entity or agent or employee to ~~[No metal recycling entity or secondhand metal dealer, shall]~~ purchase or otherwise receive in the course of [his] business, any item, ownership of which is

claimed by any minor, or which may be in the possession of or under control of a minor, unless:

- (1) The minor is accompanied by his parent or guardian, who shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent;
- (2) The minor has a valid official identification document such as a driver's license; or
- (3) ~~(2)~~ The only items offered for sale by the minor are aluminum cans, or non-regulated materials.

(b) It is ~~shall be~~ the duty of such person who owns or operates a metal recycling entity or an agent or employee ~~[or secondhand metal dealer]~~, to preserve and keep on file, and available for inspection, such written statements of consent for a period of not less than one year. A violation of this subsection is unlawful and punishable as provided in this division.

SECTION 48. Section 16-210 Acceptance of property inscribed with company name, is renumbered as 16-228 and amended to read as follows:

Sec. 16-228 ~~[16-210]~~ Acceptance of property inscribed with company name.

It is ~~shall be~~ unlawful for any person who owns or operates a metal recycling entity ~~[or secondhand metal dealer]~~, or the ~~his~~ agents or employees, to purchase or receive an item of property that is marked with any form of the name or initials of a private company or that the person who owns or operates a metal recycling entity or agent or employee ~~[or secondhand metal dealer]~~ knows or should reasonably be expected to know belongs to a private company unless the person offering such property for sale presents at the time of such offer a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

SECTION 49. Section 16-210.1 Acceptance of property delivered by shopping cart, is renumbered as 16-229 and amended to read as follows:

Sec. 16-229 ~~[16-211]~~. Acceptance of property delivered by shopping cart.

It is ~~shall be~~ unlawful for any person who owns or operates a metal recycling entity ~~[or secondhand metal dealer]~~, the ~~his~~ agents or employees to purchase or receive an item of property that is transported to the metal recycling entity ~~[or secondhand metal dealer's place of business]~~ by a shopping cart that is marked with any form of the name or initials of a private company or that the person who owns or operates the metal recycling entity

~~[or secondhand metal dealer], or agent or employee~~ knows or should reasonably be expected to know belongs to a private company unless the person operating the shopping cart presents at the time of transportation of property to the person who owns or operates the metal recycling entity ~~[or secondhand metal dealer presents]~~ or the agent or employee a valid receipt from the owner of the shopping cart evidencing the purchase of the shopping cart by the person operating the shopping cart.

SECTION 50. Section 16-230 Violation and Penalties, is added to read as follows:

Sec. 16-230. Violation and penalties.

It is unlawful for a person to do or perform any act prohibited by this division, or fail to do or perform any act required by this division. A violation under this division is a class C misdemeanor offense, unless specifically stated otherwise, and upon conviction, a person shall be fined an amount not less than one hundred dollars (\$100.00) nor more than two thousand dollars (\$2,000.00).

SECTION 51. Sections 16-210.2 through 16-210-5 are deleted as follows:

~~[Sec. 16-210.2. -- Change in business address.~~

~~Should any licensee move his place of business from the place designated in such license to a new address, he shall immediately give written notice to the director and have the change noted on his license.~~

~~Sec. 16-210.3. -- Individuals to be prosecuted; fine upon conviction.~~

~~It is a class "C" misdemeanor for any individual dealer, manager, agent, or employee of a dealer to recklessly receive or negligently allow another to receive regulated metal property in violation of this code. Upon conviction it shall be punishable by a fine of not more than five hundred dollars (\$500.00).~~

~~Sec. 16-210.4. -- Revocation of license of salvage dealers with repeat violations; hearing.~~

~~The housing and neighborhood services department director shall investigate suspended violators of this article. An administrative license revocation hearing shall be conducted by the city manager or a duly appointed hearing officer in accordance with the requirements of section 16-210.5. The hearing officer shall consider documentary evidence and testimony from any interested parties who desire to offer relevant testimony. Upon a determination that the licensee is unable or unwilling to enforce the business practices necessary to comply with this article, the city manager shall revoke the dealer's license.~~

~~Sec. 16-210.5. -- License revocation hearing.~~

~~(a) Request by housing and neighborhood services director to city manager for hearing. The director shall notify the city manager of the need for a salvage dealer's license revocation administrative hearing and the city manager or a duly authorized~~

~~representative shall set a hearing date. The director shall notify the affected dealer of such hearing, the reason for such hearing, and of the dealer's right to present evidence and to question all witnesses at such hearing. The notice shall be mailed by certified mail, return receipt requested, or hand delivered to an individual salvage dealer or to any partner of a partnership dealer, or to any officer of a corporate dealer. The notice shall be so delivered not less than fifteen (15) days before such hearing.~~

~~(b) Prerequisite for hearing. Such hearing shall be had if the dealer or any employee, manager, or agent of the dealer cumulatively have accrued two (2) convictions for violating this article within a 12-month period, or three (3) convictions within an 18-month period.~~

~~(c) Notice to dealer of license revocation. If the hearing officer determines that the dealer's salvage dealer's license shall be revoked, the city manager shall issue a written thirty (30) days notice of a salvage dealer's license revocation to the dealer by certified mail, return receipt requested. The revocation notice shall inform the dealer of the right of appeal and of the time limit for the written notice of appeal. The revocation shall become final on the 31st day after the dealer's receipt of said notice unless an appeal is properly filed.~~

~~(d) Appeal to city council; request in writing. The dealer licensee shall have the right of an administrative appeal to the city council if demanded in writing and delivered to the city manager within ten (10) days after the dealer's receipt of the city manager's written thirty (30) days notice dealer's license revocation. Any continuation of business as a dealer after such revocation takes effect shall be in violation of the license requirements of this article unless enjoined by a court of competent jurisdiction. Said revocation notice shall inform the dealer of the right of appeal and of the time limit for the required written notice of appeal to be submitted to the city manager.]~~

SECTION 52. Chapter 35, Unified Development Code, of the City Code of San Antonio, Texas, is hereby amended by adding the underlined (added) language and deleting the stricken (~~deleted~~) language.

SECTION 53.Chapter 35, Section 35-702 Continuing Lawful Use of Property and Structures, is amended to read as follows:

Sec. 35-702. Continuing Lawful Use of Property and Structures.

(a) **Nonconforming Use Defined.** A nonconforming use shall be any use which:

- (1) On the effective date of the ordinance from which this chapter is derived was lawfully operated as a nonconforming use in accordance with the provisions of any prior zoning ordinances; or
- (2) On or after the effective date of the ordinance from which this chapter is derived was lawfully operated in accordance with the provisions of said ordinance but which use, by reason of amendment to said ordinance, or other governmental action, is not a permitted use in the district in which the use is located; provided, however, that a permitted use, otherwise in accordance with the provisions of this chapter, shall not be deemed a nonconforming use for a failure to comply with the provisions of this chapter relating to permitted signs, yard requirements, off-street parking requirements, or off-street loading requirements. Territory annexed into the city may continue as provided in subsections (a) and (b) of V.T.C.A. Local Government Code § 43.002, except as provided in subsection (c) thereto.

(b) **Limitations on Nonconforming Uses.**

- (1) **Nonconforming Uses.** The lawful use of land existing as of the effective date of this chapter, or a lawful use which becomes nonconforming because of an amendment to this chapter, may be continued as provided in this section.
- (2) **Abandonment.** If such nonconforming use is discontinued for twelve (12) months, any future use of such premises shall be in conformity with the provisions of this chapter. Abandonment of a nonconforming use shall terminate the right to operate such use.
- (3) **Continuance.** The lawful use of any building existing as of the effective date of this chapter may be continued, although such use does not conform to the provisions of this chapter. Such use may be extended throughout the building, provided no structural alterations or additions to the structure, except those required by law or ordinance, are made thereto.

- (4) **Enlargement.** A conforming structure in which a nonconforming use is operated shall not be enlarged or extended except as required by law or ordinance.
- (5) **Conditions.** The right of nonconforming uses to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the zoning city, be reasonably required for the protection of adjacent property.
- (c) **Nonconforming Lots of Record.** A substandard lot may be used for any uses permitted in the applicable zoning district. A "substandard lot" means any lot which fails to meet the requirements for area or width, or both, generally applicable in the district because of a change in the applicable zoning district regulations, annexation, condemnation of a portion of the lot, or other governmental action. The provisions of this section do not require the replatting or combination of platted lots under common ownership which are protected by state vested rights law.
- (d) **Applicability to metal recycling entities.** Once registered with the Development Services Department, licensed metal recycling entities legally existing on the effective date of this subsection shall have nonconforming rights and shall be eligible to obtain building permits for rebuilding and expansion within the property boundaries such as they existed on the effective date of this subsection. If the metal recycling use has been discontinued for twelve (12) consecutive months following the effective date of this subsection the owner of said property may:
- (1) Apply for a certificate of occupancy and/or building permit as required by this chapter for one of the permitted uses granted by the zoning districts established by this chapter (see article III, section 35-311); or
 - (2) Submit a request for reinstatement of nonconforming rights to the director where the enforcement of this chapter would result in unnecessary hardship, and where the spirit of this chapter is observed and substantial justice is done; or
 - (3) Submit an application for rezoning to another zoning district.

Commentary: Only reinstatement of nonconforming rights as they existed under Subsection 35-702(d) is possible.

See also Chapter 16, Article VII of the City Code related to metal recycling entities.

SECTION 54. Chapter 35, Table 311-2 Non-residential use matrix, is amended by adding Metal recycling entity sections, a Salvage vehicle Recycling Facility section and deleting Junkyard or Salvage Yard from the matrix.

TABLE 311-2 NON-RESIDENTIAL USE MATRIX															
	<i>PERMITTED USE</i>	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	I	I-1	I-2	ERZD	LBCS		

[Manufacturing	Junkyard or Salvage Yard										S	NA	2120]		

Processing	Used automotive parts recycler										S	NA			
Processing	Recycling Facility Without Outside Storage and/or Processing (Excluding Metal recycling entity)									P	P	S			
Processing	Recycling Facility With Outside Storage and/or Processing (Excluding Metal recycling entity)										P	NA			
Processing	Metal recycling entity Without Outside Storage and/or Processing									S	S	S			
Processing	Metal recycling entity With Outside Storage and/or Processing										S	NA			

SECTION 55. Chapter 35, Table 311-2a Non-residential use matrix, is amended to read as follows:

TABLE 311-2a NON-RESIDENTIAL USE MATRIX				
	Urban	Rural	Farm	Mixed Industrial

		UD Major Node	UD Minor Node	RD Major Node	RD Minor Node	FR Ag Commercial	VILLAGE CENTER FR / FR	MI - 1	MI-1 Minor Node	VILLAGE CENTER - M1	MI - 2	MI-2 Minor Node	VILLAGE CENTER - M2
	<i>PERMITTED USE</i>												

[Manufacturing	Junkyard or Salvage Yard										P		

Processing	<u>Used Automotive Parts Recycler</u>										S		
Processing	<u>Recycling Facility Without Outside Storage and/or Processing (excluding metal recycling entity)</u>							P			P		
Processing	<u>Recycling Facility With Outside Storage and/or Processing (excluding metal recycling entity)</u>										P		
Processing	<u>Metal recycling entity Without Outside Storage and/or Processing</u>							S			S		
Processing	<u>Metal recycling entity With Outside Storage and/or Processing</u>										S		

SECTION 56. Chapter 35, Section 35-334 “MAOZ” Military Airport Overlay Zones, is amended to read as follows:

Sec. 35-334 “MAOZ” Military Airport Overlay Zones

Military Airport Overlay Zone Permitted Use Table

MAOZ Permitted Use	MAOZ-1	MAOZ-2
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<p align="center"><u>USED AUTOMOTIVE PARTS RECYCLER [JUNK YARD or SALVAGE YARD]</u></p>	<p align="center">p³</p>	<p align="center">p³</p>
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SECTION 57. Chapter 35, Section 35-338 “RIO” River Improvement Overlay Districts, is amended to read as follows:

Sec. 35-338 “RIO” River Improvement Overlay Districts

(c) Uses

(1) Prohibited Uses.

A. The following uses are prohibited within the river improvement overlay district:

- 9. Used automotive parts recycler [~~junkyard or salvage yard~~]

SECTION 58. Chapter 35, Section 35-525 (a)(5)C. is amended to read as follows:

Sec. 35-525 Outdoor Storage Standards

(a) **Applicability.** The provisions of this section apply to the keeping, in an unroofed area, any goods, junk, material, or merchandise in the same place for more than twenty-four (24) hours, where outside storage is permitted as a use in Table 311-2, Nonresidential Use Matrix or in the definition of the use in Appendix A. For purposes of this section, outdoor storage is divided into the following categories:

(5) **Class 5 Storage.** Class 5 storage includes any of the following:

- C. The storage, sale, dismantling or other processing of used or waste materials that are not intended for re-use in their original forms. This use includes automotive wrecking yards, used automotive parts recyclers [~~junkyards~~], and paper salvage yards.

SECTION 59. Chapter 35, Table 526-3b is amended to read as follows:

TABLE 526-3b

Group	Permitted Use	Minimum Vehicle Spaces	Maximum Vehicle Spaces
<p><u>PROCESSING</u> [MANE.]</p>	<p align="center"><u>USED AUTOMOTIVE PARTS RECYCLER JUNK YARD or SALVAGE YARD]</u></p>	<p align="center">1 per employee</p>	<p align="center">N/A</p>

SECTION 60. Chapter 35, APPENDIX A, DEFINITIONS AND RULES OF INTERPRETATION is amended to delete “junk yard or salvage yard,” “recycling business”

and “recycling business” definitions and to add “metal recycling entity,” “processing,” “recycling facility” and “used automotive parts recycling”:

[Junk yard or Salvage yard.....UDC A:41]

[Recycling business.....UDC A:54]

* * * * *

~~[Junkyard or salvage yard. Any premises where junk, articles or materials, including junked, wrecked or inoperable vehicles, which are ready for destruction or which have been collected or stored for salvage or conversion to some use.]~~

Metal recycling entity means a business that is operated from a fixed location and is predominately engaged in the following and excludes used automotive parts recycling businesses.

- (A) Performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;
- (B) The use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or
- (C) Purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

Processing. For the purposes of this chapter, a series of operations, usually in a continuous and regular action or succession of actions, taking place or carried on in a definite manner. “Processing” is generally associated with the chemical transformation of materials or substances into new products and may include, but is not limited to, the blending and combining of gases and liquids or the shredding and compacting of metals. Processing of recyclable material may include baling, briquetting, cleaning, compacting, crushing, flattening, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials. A processing facility may also contain a warehouse. Outdoor storage shall comply with UDC section 35-525.

~~[Recycling business. A business that is primarily engaged in: (A) Converting ferrous or non-ferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value; (B) Using raw material products of that kind in the production of new products; or (C) Obtaining or storing ferrous or non ferrous metals or other materials for a purpose described by subsection (A) or (B).]~~

Recycling facility. For the purposes of this chapter, a facility in which recyclable products are recycled, processed, and treated to return such products to a condition in which they may be used again in new products. The presence of power-driven processing equipment distinguishes

a recycling facility from a facility used merely for drop off or collection of recyclable materials. This use includes the processing of waste material into salable products. Recycling of oil and other liquids may also occur in a recycling facility.

Used Automotive Parts Recycling means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or nonrepairable motor vehicles, including the resale of those vehicles.

SECTION 61. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, or any appendix thereof, for any reason, be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 62. There is no financial impact as a result of the passage of this ordinance.

SECTION 63. No other provision of the City Code is amended hereby. All other provisions shall remain in effect.

SECTION 64. The City Clerk for the City of San Antonio is hereby directed to publish notice of this ordinance in a newspaper published in the City of San Antonio, Texas, as required by Article 2, Section 17 of the City Charter of San Antonio, Texas.

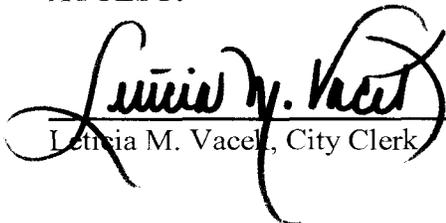
SECTION 65. The publishers of the City Code of San Antonio are authorized to amend said Code to reflect the changes adopted herein, to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 66. This Ordinance is effective immediately upon the receipt of eight or more affirmative votes; otherwise, it shall become effective ten days after passage.

PASSED AND APPROVED this 13th day of December, 2012.


M A Y O R
Julián Castro

ATTEST:


Leticia M. Vacell, City Clerk

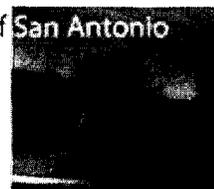
APPROVED AS TO FORM:


Michael D. Bernard, City Attorney




Request for
COUNCIL
 ACTION

City of San Antonio



Agenda Voting Results - 24

Name:	10, 11, 12, 13, 15, 16, 17, 18A, 18B, 18C, 18D, 18E, 18F, 18G, 19A, 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19I, 19J, 19K, 19L, 20, 21, 22, 24, 25A, 25B, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37A, 37B, 37C, 37D						
Date:	12/13/2012						
Time:	03:04:01 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending Chapters 16 and 35 of the City Code of San Antonio, Texas, by clarifying and strengthening Chapter 16 provisions relating to salvaging and recycling operations, harmonizing Chapter 35 land use requirements with Chapter 16 and providing for penalties, publication and an effective date. [David Ellison, Assistant City Manager, Roderick Sanchez, Director, Development Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				