# MEMORANDUM

EDPC
Substitute to
Agenda Item No. 1(F)1

**TO:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**DATE:** May 16, 2013

**FROM:** R. A. Cuevas, Jr.
County Attorney

**SUBJECT:** Ordinance relating to junk dealers and scrap metal processors; amending article 1A of the Code; amending Section 8CC-10 of the Code relating to Code Enforcement

**This substitute item differs from the original item in that it provides in Section 8A-9.5 that it prohibits purchases of regulated metals property, restricted regulated meals property or ferrous metals anytime on Sundays.**

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

# MEMORANDUM
(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

**DATE:** June 4, 2013

**FROM:** R. A. Cuevas, Jr.
County Attorney

**SUBJECT:** Agenda Item No.

**Please note any items checked.**

| | |
|---|---|
| _____ | **"3-Day Rule" for committees applicable if raised** |
| ✓ | **6 weeks required between first reading and public hearing** |
| ✓ | **4 weeks notification to municipal officials required prior to public hearing** |
| _____ | **Decreases revenues or increases expenditures without balancing budget** |
| _____ | **Budget required** |
| ✓ | **Statement of fiscal impact required** |
| _____ | **Ordinance creating a new board requires detailed County Mayor's report for public hearing** |
| _____ | **No committee review** |
| _____ | **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve** |
| _____ | **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required** |

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No.

6-4-13

ORDINANCE NO. _____

ORDINANCE RELATING TO JUNK DEALERS AND SCRAP METAL PROCESSORS; AMENDING ARTICLE 1A OF THE CODE OF MIAMI-DADE COUNTY; CLARIFYING DEFINITIONS AND RECORDKEEPING; PROVIDING CASH LIMITATION FOR REGULATED METALS PROPERTY AND PAYMENT METHODS FOR REGULATED METALS PROPERTY AND RESTRICTED REGULATED METALS PROPERTY; REVISING LIST OF RESTRICTED REGULATED METALS PROPERTY; LIMITING HOURS FOR PURCHASE TRANSACTIONS; REQUIRING TRAINING AND CERTIFICATION OF TRAINING PRIOR TO ISSUANCE OF PERMIT UNDER SECTION 15-17 OF THE CODE OF MIAMI-DADE COUNTY; AMENDING SECTION 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, RELATING TO CODE ENFORCEMENT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Article 1A of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

**ARTICLE 1A - JUNK DEALERS AND SCRAP METAL PROCESSORS.**

**Sec. 8A-9. Short Title; Purpose.**

(1) Sections 8A-9—8A-9.6 shall be known and may be cited as the "Junk Dealers and Scrap Metal Processors Ordinance".

(2) The purpose of the Junk Dealers and Scrap Metal Processors Ordinance is to protect the public health, safety and welfare by impeding the sale of stolen regulated metals

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

property and thereby deterring the theft of regulated metals property.

**Sec. 8A-9.1. Definitions.**

In construing this section, unless the context requires otherwise, the following words or phrases shall mean:

(a) *Ferrous metals* means any metals containing significant quantities of iron or steel.

(b) *Fixed location* means any site occupied by a secondary metals recycler as owner of the site or as lessee of the site under a lease or other rental agreement providing for occupation of the site by the secondary metals recycler for a total duration of not less than 364 days.

(c) *Junk* means old or scrap copper, brass, rags, batteries, paper, trash, rubber, debris, waste, junked, dismantled or wrecked automobiles or parts thereof, iron, steel, and other scrap ferrous or nonferrous material.

(d) *Junk dealer* means any person who is not a traveling junk dealer within the purview of Section 8A-204 or 8A-237.1 and is engaged in the business of maintaining and operating a junkyard and includes a secondary metals recycler as defined herein.

(e) *Junkyard* means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(f) *Nonferrous metals* means metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof, excluding precious metals such as gold, silver and platinum.

(g) *Person* means any individual, agency, firm, association or corporation.

(h) *Personal identification card* means [[~~any government-issued photographic identification card~~]]>>a valid Florida driver license, Florida identification card issued by the

Department of Highway and Safety and Motor Vehicles, an equivalent form of identification issued by another state, a passport, or an employment authorization issued by the United States Bureau of Citizenship and Immigration Services that contains an individual's photograph and current address<<.

(i) *Purchase transaction* means a transaction in which a junk dealer, scrap metal processor or secondary metals recycler gives consideration for regulated metals property.

(j) *Regulated metals property* means any item composed primarily of any nonferrous metals. The term shall include, without limitation, copper, brass, and bronze pipe, piping and tubing and wire which is or can be used for transmission or distribution in a utility or communications system. The term shall also include stainless steel beer kegs and manholes but shall not include aluminum beverage containers, >>used beverage containers,<< or similar beverage containers.

(k) *Restricted regulated metals property* means any regulated metals property listed in Section 8A-9.4, the sale of which is restricted as provided in Section 8A-9.3.

(l) *Scrap metal processing plant* means an establishment or place of business maintaining and operating machinery and equipment used to process scrap iron, steel and other metals to specifications prescribed by, and for sale to, mills and foundries.

(m) *Scrap metal processor* means a>>ny<< person maintaining and operating a scrap metal processing plant and shall include a secondary metals recycler as defined herein.

(n) *Secondary metals recycler* means any person who:

(1) Is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or

(2) Has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof.

**Sec. 8A-9.2. Recordkeeping.**

(a) Every person engaging in or operating as a junk dealer or scrap metal processor shall maintain a legible record of all purchase transactions to which such junk dealer or scrap metal processor is a party.

(b) The following information must be maintained on a form approved by the applicable law enforcement agency for each purchase transaction:

(1) The name and address of the junk dealer or scrap metal processor.

(2) The name, initials, or other identification of the individual entering the information on the ticket.

(3) The date and time of the transaction.

(4) The weight, quantity, or volume, and a description of the type of regulated metals property purchased in a purchase transaction. >>Every scrap metal processor and junk dealer shall further identify the type of regulated metals property using the code of classifications for regulated metals property and restricted regulated metals property provided by the Miami-Dade Police Department.<<

(5) The amount of consideration given in a purchase transaction for the regulated metals property.

(6) A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold. If the

purchase involves a stainless steel beer keg, the seller must provide written documentation from the manufacturer that the seller is the owner of the stainless steel beer keg or is an employee or agent of the manufacturer.

(7) The distinctive number from the personal identification card of the person delivering the regulated metals property to the junk dealer or scrap metal processor.

(8) A description of the person from whom the regulated metals property were acquired, including:

a. Full name, current residential address, workplace, and home and work phone numbers.

b. Height, weight, date of birth, race, gender, hair color, and any other identifying marks.

c. The right thumbprint, free of smudges and smears.

d. Vehicle description to include the make, model, and tag number of the vehicle and trailer of the person selling the regulated metals property.

e. Any other information required by the form approved by the applicable law enforcement agency.

(9) A photograph, videotape, or digital image of the regulated metals being sold.

(10) A photograph, videotape, or similar likeness of the person receiving consideration in which such person's facial features are clearly visible>> taken at the time of the purchase transaction.<<

(c) For the purchase of articles other than regulated metals property, the purchaser shall keep a full and complete record showing from whom and when each article was purchased or acquired and to whom sold and the date of each sale.

(d) The records required to be kept by sub-paragraphs (a), (b) and (c) and Section 538.19, Florida Statutes, shall be maintained by the purchaser on a form approved by the applicable law enforcement agency for a period of not less than five (5) years and shall at all reasonable times be subject to inspection by any local law enforcement officer commissioned in the State and the Miami-Dade Inspector General's Office. Local law enforcement shall implement a regular inspection process of secondary metal recyclers. The process shall include a report being automatically generated and sent to the Florida Department of Revenue for every violation of this ordinance and of Part II of Chapter 538 of the Florida Statutes. >>The Miami-Dade Police Department shall provide a report annually to the Board of County Commissioners on compliance and enforcement of this ordinance and Part II of Chapter 538 of the Florida Statutes.<<

(e) If the purchase transaction involves the transfer of regulated metals property from a secondary metals recycler registered with the State to another secondary metals recycler registered with the State, the secondary metals recycler receiving the regulated metals property shall record the name and address of the secondary metals recycler from which it received the regulated metals property in lieu of the requirements of paragraph (b)(8) above.

(f) Every junk dealer and scrap metal processor shall post notice of the prohibition of cash transactions contained in this ordinance and the prohibition of certain acts and practices contained in >>section 8A-9.5 herein<< [[~~section 538.26 of the Florida Statutes,~~]] at every junkyard, scrap metal processing plant and any other facility where a junk dealer or scrap metal processor conducts business. The notice shall be in English, Spanish and Creole.

>>(g) In the event of an emergency or act of God such as a hurricane, every scrap metal processor and junk dealer shall comply with an evacuation order or any other order issued by an authorized official of Miami-Dade County.<<

**Sec. 8A-9.3. >>Limitation on Cash Transactions for Regulated Metals Property and <<Prohibition of Cash Transactions >>for Restricted Regulated Metals Property.<<**

>>(a) Consideration for the purchase of regulated metals property that exceeds $1000.00 shall be made by check issued to the seller and payable to the seller of the regulated metals property or by a voucher issued to the seller of the regulated metals property which can be used at an on-site electronic device which produces, retains and stores an accounting of all of the information required in Section 8A-9.2.<<

[[~~(a)~~]]>>(b)<< A junk dealer or scrap metal processor shall not enter into any cash transaction for the purchase of restricted regulated metals property listed in section 8A-9.4.

[[~~(b)~~]]>>(c)<< Consideration for the purchase of restricted regulated metals property shall be made by check issued to the seller of the >>restricted<< regulated metals property and payable to the seller >>in accordance with the procedure for payment provided in section 538.235 of the Florida Statutes<< or by a voucher issued to the seller which can be used at an on-site electronic device which produces, retains and stores an accounting of all of the information required in Section 8A-9.2.

**Sec. 8A-9.4. Restrictions on Purchases.**

A junk dealer or scrap metal processor shall not purchase any of the following items of restricted regulated metals property without obtaining reasonable proof that the seller owns the property (such as a receipt [[~~of~~]] >>or<< bill of sale) or reasonable proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business or entity owning the property and the seller is authorized to sell the item of >>restricted<< regulated metal property on behalf of the person, business, or entity. Reasonable proof of authorization to sell the property includes, but is not limited to, a signed letter on the owner's letterhead, dated no later than 90 days before the sale, authorizing the seller to sell the property. The scrap metal processor or junk dealer shall require reasonable proof of ownership for each individual item of restricted regulated metals property that is offered for purchase.

(a) Manhole cover.

(b) An electric light pole or other utility structure and its fixtures, wires and hardware>> that are readily identifiable as connected to the utility structure<<.

(c) A guard rail.

(d) A street sign, traffic sign, or traffic signal and its fixtures and hardware.

(e) Communication, transmission, distribution, and service wire>> from a utility<<, including copper or aluminum busbars, connectors and grounding plates or grounding wire.

(f) A funeral marker or funeral vase.

(g) An historical marker.

(h) Railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.

(i) Any metal item that is >>observably<< marked >>upon reasonable inspection<< with any form of the name, initials, or logo of a governmental entity, utility company, cemetery or railroad.

(j) A copper>>, aluminum,<< or aluminum>>-copper<< condensing or evaporator coil, including >>its<< tubing or rods, from a>>n air conditioning or<< heating >>unit, excluding coils from window air conditioning or heating units and motor vehicle air-conditioning or heating units.<<[[~~or air conditioning unit.~~]]

(k) An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.

(l) >>A<< [[~~S~~]]>>s<<tainless steel beer keg[[s]].

(m) A catalytic converter or any part of a catalytic converter >>unless purchased as part of a motor vehicle<<.

(n) Metallic wire that was burned in whole or in part to remove insulation.

(o) >>A<< [[~~B~~]]>>b<<rass or bronze commercial valves or fittings, referred to as >>a "fire department connection and control valve" or an<< "FDC valve[[s]]" that >>is<< [[~~are~~]] commonly used on structures for access to water for the purpose of extinguishing fires.

(p) >>A<< [[~~B~~]]>>b<<rass or bronze commercial potable water backflow preventer valve[[s]] that >>is<< [[~~are~~]] valves commonly used to prevent backflow of potable water >>from commercial structures<< into municipal domestic water service systems>>.<< [[~~from commercial structures.~~]]

(q) A shopping cart.

>>(r) A brass water meter.

(s) A storm grate.

(t) A brass sprinkler head used in commercial agriculture.

(u) Three (3) or more automotive or marine batteries.

(v) Any battery containing lead larger than five (5) inches and not included in subsection 8A-9.4(u)<<

>>**Sec. 8A-9.5. Certain acts and practices prohibited.**

It is unlawful for a scrap metal processor to do or allow any of the following acts:

(1) Purchase regulated metals property, restricted regulated metals property, or ferrous metals before 7:00 a.m. or after 6:00 p.m. on weekdays, and before 7:00 a.m. or after 3:00 p.m. on Saturdays and<< [[~~before 9:00 a.m. or after 12:00 p.m.~~]][2] >>anytime<< >>on Sundays.<<

(2) Purchase regulated metals property, restricted regulated metals property, or ferrous metals from any location other than a fixed location.

(3) Purchase regulated metals property from a seller who:

(a) Uses a name other than his or her own name or the registered name of the seller's business;

(b) Is younger than 18 years of age; or

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2 The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

(c) Is visibly or apparently under the influence of drugs or alcohol.<<

**Sec. 8A-9.[[5]]>>6<<. Applicability>>,<< [[~~and~~]] enforcement[[.]] >>and training.<<**

>>(a)<< This ordinance shall apply to and be enforced in both the incorporated areas and unincorporated areas of Miami-Dade County. This ordinance shall not apply to >>purchases of regulated metals property<< [[~~purchase transactions~~]] from sellers exempt pursuant to Section 538.22, Florida Statutes.

>>(b) Every junk dealer and scrap metal processor shall receive training from the Miami-Dade Police Department on the requirements of the Junk Dealers and Scrap Metal Processors Ordinance and Chapter 538 Part II of the Florida Statutes. The Miami-Dade Police Department shall issue a certificate upon completion of such training. No permit under Section 15-17 of this Code shall be issued or renewed to a junk dealer or scrap metal processor without providing a certificate of completion of training. Every junk dealer and scrap metal processor owner must receive training. Every junk dealer and scrap metal processor that owns more than one location must have at least one employee from each location receive training. Within thirty (30) days of issuance from the Department of Revenue of a temporary registration or registration renewal, every junk dealer or scrap metal processor shall schedule training with the Miami-Dade Police Department. The junk dealer and scrap metal processor must complete training no later than 60 days from the Department of Revenue's issuance of the temporary registration or registration renewal. The Miami-Dade Police Department shall charge and collect fees for training at the rates established by separate Implementing Order, which shall not become effective until approved by the Board of County Commissioners.<<

**Sec. 8A-9.[[6]]>>7<<. Penalty.**

Any person violating Section 8A-9.2, 8A-9.3 or 8A-9.4 shall, upon conviction, be punished by a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment. Each

violation shall be deemed a separate offense for which a separate fine shall be assessed regardless of whether two or more violations occurred in one transaction. Any person who is convicted of a second or subsequent violation of Section 8A-9.2, 8A-9.3 or 8A-9.4 shall, upon conviction, be punished by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment in the County jail not to exceed six (6) months or by both such fine and imprisonment.

Any person who violates or fails to comply with any provision of this ordinance shall also be subject to a fine in the amount of one thousand dollars ($1,000.00) in accordance with Chapter 8CC of this Code. Chapter 8CC is hereby amended to include such fine. Each item of restricted regulated metals property listed in Section 8A-9.4 that a scrap metal processor or junk dealer purchases in violation of this ordinance shall be deemed a separate violation for which a separate fine shall be assessed. >>The County, in addition to the sanctions contained herein, may take any other appropriate legal action, including, but not limited to emergency prohibitory and mandatory injunctive action, to enforce the provisions of this article.<<

**Section 2.** Section 8CC-10 of the Miami-Dade County Code is hereby amended to read as follows:

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

**Sec. 8CC-10. Schedule of Civil Penalties.**

| Code Section | Description of Violation | Civil Penalty |
|---|---|---|
| >>8A-9.2 | Failure to properly record, maintain and disclose records and comply with sec. 8A-9.2 | $1,000.00 |
| 8A-9.3 | Failure to comply with cash prohibition for purchase of restricted regulated metals property | $1,000.00 |

| | | |
|---|---|---|
| 8A-9.4 | Failure to comply with conditions for purchase of restricted regulated metals property | $1,000.00 |
| 8A-9.5 | Prohibited acts and practices | $1,000.00 |
| 8A-9.6 | Failure to schedule or obtain certificate of completion of training | $1,000.00<< |

* * *

**Section 3.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 4.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 5.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Henry N. Gillman

Prime Sponsor: Commissioner Audrey M. Edmonson