

This instrument prepared by:  
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 Palatka, FL 32177

**ORDINANCE No. 12 – 13**

**entitled**

**AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING AND RESTATING CHAPTER 58, ENTITLED "SECONDHAND GOODS" BY ADDING SPECIFIC LANGUAGE TO SECTION 58-31, PURPOSE OF ARTICLE, TO ADD MORE RESTRICTIVE MEASURES THAN THOSE PROVIDED IN STATE STATUTE 538 AND 319; BY DELETING SECTIONS 58-32, 58-34 THROUGH 39 IN THEIR ENTIRETY; RENAMING CHAPTER 58 AS "SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE RESTRICTIONS" AND REPLACING SAID SECTIONS WITH NEW CODE SECTIONS HEREIN NUMBERED 58-32 THROUGH 46 AUTHORIZING THE CITY TO ADD MORE RESTRICTIONS ON SECONDHAND DEALERS, SECONDARY METAL RECYCLERS AND SALVAGE MOTOR VEHICLE DEALERS BY PROVIDING DEFINITIONS; PROVIDING PENALTIES FOR VIOLATIONS; CAMERA SYSTEM REQUIREMENTS; RECORD KEEPING REQUIREMENTS; ADDITIONAL RECORD KEEPING REQUIREMENTS FOR SECONDARY METAL RECYCLERS ON NONFERROUS METALS, AND REGULATED METALS PROPERTY; DAILY REPORTS TO POLICE; INSPECTION OF PROPERTY AND RECORDS; SECONDARY METAL RECYCLER, SECONDHAND DEALER, AND SALVAGE MOTOR VEHICLE DEALER REQUIRMENTS; PROVIDING FOR LIMITATIONS ON CERTAIN RESTRICTED REGULATED METALS; RESTRICTIONS FOR PAYMENT FOR CERTAIN METALS; HOLDING PERIODS FOR STOLEN METALS; RESTRICTIONS ON TRANSACTIONS WITH MINORS; ADDITIONAL REQUIREMENTS FOR THE PURCHASE OF DERELICT MOTOR VEHICLES BY SECONDHAND DEALERS AND SALVAGE MOTOR VEHICLE DEALERS; ADMINISTRATION OF ARTICLE; PROVIDING FOR THE RENUMBERING OF CHAPTER 58 IF NECESSARY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, increasing worldwide demand for metals and the associated rising price of metals has contributed to increased theft of copper wiring from construction sites, underground telecommunications wires, utility wires, air conditioning units, beer kegs and other metal properties within the City of Palatka; and

**WHEREAS**, law enforcement officers have testified, and the commission finds, that increased criminal activity relating to the theft of secondary metals, secondary metal products, derelict motor vehicles, and major parts such as those described above is adversely impacting the health, safety and welfare of the residents of the City of Palatka; and

**WHEREAS**, in 2008 the State of Florida enacted a law that had the purpose of reducing secondary metals theft and increasing the penalties for a violation of this state law (Chapter 2008-69, Laws of Florida; Chapter 538 Florida Statutes); and

**WHEREAS**, law enforcement officials have identified areas where additional regulation of the sale of restricted regulated metals property and derelict motor vehicles and major parts would be instrumental in reducing the thefts of secondary metals within the City of Palatka; and

**WHEREAS**, section 538.17 Florida Statutes provides that nothing in the state law shall preclude political subdivisions of the state and municipalities from enacting laws more restrictive than the provisions of chapter 538; and

**WHEREAS**, the commission recognizes that the State of Florida has specified goals for increasing recycling within the state and that recycling secondary metals is a vital part of preserving the City and State's environment; and

**WHEREAS**, law enforcement within the City have sought the cooperation of other interested persons within the City to find a way to work together to reduce or completely eliminate the theft of restricted regulated metals property by sharing information; and

**WHEREAS**, the cooperative efforts and the law enforcement actions taken pursuant to the aforementioned state law have not been effective in reducing the thefts of restricted regulated metals property; and

**WHEREAS**, under Home Rule authority and section 538.17 Florida Statutes, the City of Palatka has the authority to further regulate the secondary metals recycling industry and enact more restrictive provisions; now therefore

**NOW, THEREFORE, BE IT ENACTED BY THE CITIZENS OF THE CITY OF PALATKA, FLORIDA:**

**Section 1:** Chapter 58, Secondhand Goods, is hereby restated in its entirety, and shall be entitled to read "Secondhand Dealers, Secondary Metal Recyclers and Salvage Motor Vehicle Restrictions" and is hereby created to read as follows (notwithstanding the renumbering of Chapter 58, if necessary):

**CHAPTER 58  
SECONDHAND DEALERS, SECONDARY METALS RECYCLERS AND SALVAGE  
MOTOR VEHICLE DEALERS RESTRICTIONS**

**\*State law references:** Authority to regulate, F.S. § 538.03 – 538.26 and 319.30.

**Sec. 58-31. Purpose of article.**

The purpose of this article is to set forth regulations governing the purchase and disposition of personal property made of gold, silver, platinum or other precious metals in a more restrictive manner than provided by chapter 538 of Florida State Statutes. This article also establishes regulations governing the purchase of derelict motor vehicles by regulated secondary metal recyclers and salvage motor vehicle dealers in a more restrictive manner than provided by chapters 319 within the corporate limits of the city.

**Sec. 58-32. Definitions.**

The definitions relating to secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers found in F.S. section 538.03 through 538.18 and F.S. 319 shall apply to this article.

**Sec. 58-33. Penalty.**

Any secondhand dealer, secondary metals recycler or salvage motor vehicle dealer in violation of any provision of this article shall be guilty of a violation of this Code and punishable by fine or imprisonment, or both, not to exceed a \$500.00 fine and/or 60 days in the county jail.

**Sec. 58-34. Camera System requirements**

All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealer business shall have a camera system that will take a clear photograph or digital image of the seller and the items he or she is selling as well as the vehicle the seller responded in. The secondary metal recycler, secondhand dealers or salvage motor vehicle dealer shall use such camera to photograph every person, except as herein provided, in connection with all purchases and/or trade-in allowance of all articles by the recycler or dealer and to make such photographs, or digital images available to any law enforcement officer upon request.

**Sec. 58-35 Recordkeeping requirements.**

Secondary metals recyclers, secondhand dealer and salvage motor vehicle dealers shall legibly, in the English language, complete a transaction form at the time of each transaction relating to nonferrous metals, precious metals, regulated metals property and motor vehicle purchases, derelict motor vehicle purchases, junk material, and major component parts. Unless other arrangements have been agreed upon by the secondary metal recycler, secondhand dealer, salvage motor vehicle dealer and the city police department. The secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall, within 24 hours after the acquisition of any items, deliver to the city police department a record of the transactions on a form or electronic file approved by the Chief of Police. Such record shall contain:

- (1) The time, date, and place of the transaction.
- (2) A description of the person from whom the item(s) were acquired, including:
  - a. Full name, current residential address, workplace, and home and work phone numbers.
  - b. Driver's license, or personal identification card.
  - c. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
  - d. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired. If the right thumbprint cannot be obtained, the left thumbprint shall be obtained and the reason why the right thumb print was not available shall be listed on the form.
- (3) The name of the person handling the transaction.
- (4) A signed affidavit stating that the item(s) received in the transaction are not stolen.
  - (a) No secondary metal recycler, secondhand dealer, salvage motor vehicle dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it shall make a photograph of the person and items/articles from whom such article is being received and attach such photograph to the transaction form which shall be completed at the time of the transaction.
  - (b) No secondary metals recycler, salvage motor vehicle dealer or secondhand dealer shall accept any nonferrous metals, regulated metals, motor vehicles, derelict motor vehicles, junk, or major parts unless it has verified the identification, by the exhibition of a photographic personal identification card of the person from whom such article is being received.
  - (c) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers regulated by this article shall maintain each and every completed transaction record on the registered premises, or in an electronic database accessible from the premises as long as the database contains the information required by this section, along with an electronic oath of ownership with an electronic signature of the seller of the article being purchased by the secondary metals recycler, salvage motor vehicle dealer and secondhand dealer an electronic image of the seller's right thumbprint that has no smudges and smears, and can

be downloaded onto a paper form in the image of the form approved by the city police department for five years from the date of the transaction. No secondary metals recycler, secondhand dealers or salvage motor vehicle dealers shall refuse to deliver such photograph or transaction form to any law enforcement officer upon request in connection with a specific item of stolen property within three years following the date of the transaction.

- (d) Every secondary metals recycler, secondhand dealers and salvage motor vehicle dealers shall display a notice to his customers in a prominent place to the effect that he/she is required to photograph and fingerprint every person and item to be sold or offered as full or part payment an item to him/her, pursuant to city code.
- (e) At least 60 days prior to the destruction of a photograph or transaction form, the secondary metal recycler, secondhand dealer and salvage motor vehicle dealers shall notify, in writing, the city police department of his/her intent to destroy such documents. The city police department, at its option, shall request the secondary metal recycler, secondhand dealer and salvage motor vehicle dealer to turn over all said documents to the city police department, and the secondary metals recycler, secondhand dealer and salvage motor vehicle dealer upon said request, shall turn over all documents to the city police department.

**Sec. 58-36 Additional recordkeeping requirements for secondary metal recyclers on; nonferrous metals, and regulated metals property.**

- (a) In addition to the transaction form required in section 58-35, whenever any secondary metals recycler purchases any nonferrous or regulated metals property, the secondary metal recycler dealer shall keep a record of:
  - (1) The operator license of the person delivering the metal;
  - (2) Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the metal was delivered;
  - (3) The quantity purchased;
  - (4) The general description of the form of the metal when received including whether the same is in the form of wire, cable, bars, fittings, guttering, rods, or tubing, and if applicable, if such form contains any identifiable or distinguishable markings, numbers, letters or labeling; and
  - (5) The names and addresses of the person, groups of persons, or corporation from whom the seller obtained the metal.

The records set forth in this section shall be open for inspection as required in section 58-35, and subject to the reporting requirements of section 58-36.

**Sec. 58-37. Daily report to police.**

Unless other arrangements have been agreed upon by the secondhand dealer, secondary metal recycler, salvage motor vehicle dealer and the city police department, every secondary metal recycler, salvage motor vehicle dealer and secondhand dealer, before 12:00 noon each business day, shall report to the police chief, or such other law enforcement officer as may be designated, via electronic mail, facsimile, hand delivery or other method so approved by the police chief, the information required by sections 58-35, 58-36 and 58-44 of this code for all items received during the previous business day. The report shall be completed in such format as may be directed by the city.

**Sec. 58-38. Inspection of property and records.**

During the usual and customary business hours of a secondary metal recycler, second hand dealer and salvage motor vehicle dealer a law enforcement officer shall, after properly identifying herself or himself as a law enforcement officer, have the right to inspect:

- (1) Any and all purchased regulated metals, and items identified in F.S. 319 and property in the possession of the secondary metals recycler, and salvage motor vehicle dealer
- (2) Any and all records required to be maintained under section 58-35, 58-36 and 58-44.

(3) All articles of personal property made of gold, silver, platinum or other precious metal purchased or received by secondhand dealers shall be so arranged in stock as to enable the stock to be inspected by the chief of police or any other person with such authority.

**Sec. 58-39 Secondary metal recycler, Secondhand Dealer and Salvage Motor Vehicle Dealer ;requirements.**

- (a) It shall be unlawful for any secondary metal recycler, salvage motor vehicle dealer and secondhand dealer to operate in the city without first meeting the requirements of this article.
- (b) No secondary metal recycler, salvage motor vehicle dealer or secondhand dealer shall be licensed as a pawnbroker or dealer in secondhand goods in the city, nor shall any secondary metal recycler, salvage motor vehicle dealer or secondhand dealer make any loans upon any article designated herein as junk, nor receive the same as a pledge, pawn or security, nor shall any person purchase, sell, exchange or deal in any such articles without first complying with all the provisions of this part.
- (c) A copy of the regulations prescribed by this article shall be posted in a conspicuous place at the place of business of every secondary metal recycling, salvage motor vehicle dealer and secondhand dealer and it shall be the duty of the register, upon request, to furnish copies of the regulations to every secondary metal recycler, salvage motor vehicle dealer and secondhand dealer in the city.
- (d) No secondary metal recycler, secondhand dealer or salvage motor vehicle dealer shall purchase or receive by sale, barter, exchange, or otherwise, any ferrous or nonferrous metal, scrap, alloy, motor vehicles, derelict motor vehicles, junk, or major parts:
- (1) Between the hours of 9:00 p.m. and 7:00 a.m.
  - (2) From any person with the knowledge that such items are stolen property; nor
  - (3) From any person under the age of 18 years without consent of a parent or guardian. A personal identification card is required to prove age.
  - (4) Purchase regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle.
- (e) All secondary metal recyclers, secondhand dealers and salvage motor vehicle dealers shall keep and retain on their premises all items listed in Sec. 58-40 and 58-44 in its original form, shape and/or condition in which it was received for a period of three days after notification to the city police department of the same article. In computing any period of time proscribed or allowed by this section, the day of receipt of the item and holidays observed by the city shall not be included in the computation. In the event that a city holiday is observed on two consecutive business days, computation of the time under this article shall begin to run on the following business day. In all other cases Saturday and Sunday shall be included in the time computation.

**Sec. 58-40. Purchases of suspected secondary metals limitations and notification.**

- (a) A secondary metal recycler or secondhand dealer shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (by receipt or bill of sale), or is an employee, agent, or person who is authorized to sell the item of regulated metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization, or secondary metal recycler:
1. Utility access cover;
  2. Street light poles, its fixtures and hardware;
  3. Road and bridge guard rails;
  4. Highway or street sign;
  5. Water meter cover or water meter;
  6. Traffic directional and traffic control signs, street signs;

7. Traffic light devices, its hardware or wiring;
8. Item marked with any form of the name, initials, or logo of a government entity, utility company, cemetery or railroad;
9. Property owned and marked by a telephone, cable, electric, water, or other utility provider to include communication, transmission, distribution, and service wire from a utility, including copper or aluminum wire bus bars, connectors, and grounding plates or grounding wire;
10. Railroad equipment, including but not limited to a tie, plate, signal house, control box, switch plate, E clip, or rail tie junction;
11. Funeral markers and vases;
12. Historical markers;
13. Bales of regulated metal property;
14. Copper, aluminum, or aluminum copper condensing coil or evaporator coil, including its tubing or rods, from a heating or air conditioning unit (excluding coils from a window air conditioning unit and automobiles);
15. Aluminum or stainless steel container or bottle designed to hold propane;
16. Any catalytic convertor or any nonferrous part of a catalytic converter, or similar device which contains any recoverable quantity of platinum, unless purchased as part of a whole vehicle.
17. Metal bleachers or other seating facilities used in recreational areas or sporting arenas,
18. Iron or steel decorative grates, tree trim rings, or similar type items,
19. Full sized, new materials such as those used in construction or building trades.
20. Shopping carts;
21. Stainless Steel Beer Kegs;
22. Insulated utility or communication wire that has been burned in whole or in part to remove the insulation (excluding any telephone wire, ethernet, and any romex or other wire smaller than #12 gauge, as measured with a standard wire gauge).
23. Brass or bronze commercial valves or fittings, referred to as "FDC" valves that are commonly used on structures for access to water for the purposes of extinguishing fires or;
24. Brass or bronze portable water backflow preventer valves that are valves commonly used to prevent backflow of portable water into water utility systems.

(b) Notification

1. Generally – When any seller engages in a purchase transaction or attempts to engage in a purchase transaction of any of the suspect regulated metals property listed in section 58-40 (a), the secondary metals recycler shall electronically notify the Palatka Police Department by no later than 10:00 am on the following business day. Notification for a purchase transaction shall include all records required pursuant to Florida Statute section 538.19. The Palatka Police Department shall specify the format and method for electronic notification.
2. Retention of Records – the secondary metals recycler shall retain a copy of records required in paragraph (b) 1 for not less than 5 years from the date of the purchase transaction or attempted purchase transaction and, upon request, make them available for inspection by the Palatka Police Department within 24 hours.

**Sec. 58-41. Payment.**

(a) Limitations on cash transactions for specified metals – A secondary metals recycler shall not enter into any cash transaction exceeding (\$50.00) dollars for purchase of any suspected regulated metals property listed in section 58-40(a).

(b) Payment procedures – for purchases exceeding (\$50.00) of any suspect regulated metals property listed in 58-40(a) the following shall apply:

1. Payment by a secondary metals recycler shall be made by check issued to the seller of the metal and payable to the seller or by electronic payment to the seller's or employee of the seller's bank account;
2. Each check shall be mailed by the secondary metal recycler directly to the current address or bank account of the seller which is on file with the secondary metals recycler and;
3. Each check or electronic payment shall be mailed or electronically transferred by the secondary metals recycler to the seller within three (3) days of the purchase transaction.

(c) Limited Exceptions - The secondary metals recycler may provide a check at the time of the purchase transaction rather than by mail when required by section 58-42(b) if the seller provides the satisfactory proof of qualification of one of the following:

1. Nonprofit organization registered under the Internal Revenue Code as a 501(c)(3) organization;
2. Governmental Agency;
3. Bankruptcy trustee, personal representative of estate or court appointed receiver;
4. Authorized person in execution sale; or
5. Manufacturing, industrial or other commercial vendor that generates regulated materials in the ordinary course of business.

**Sec. 58-42 Holding period and stolen regulated metals property petition for return.**

Holds placed on and petitions for return on regulated metals will be followed as per F.S.S. 538.06, 538.21, 538.24 and 319.30.

**Sec. 58-43. Transactions with minors.**

It shall be unlawful for any secondhand dealer, salvage motor vehicle dealer or secondary metals recycler to buy, take or receive by way of purchase or exchange articles made of precious metal, ferrous or nonferrous metals, regulated metals, scrap metals, alloys, motor vehicles, derelict motor vehicles, junk, or major parts from any person under the age of 18 years.

**Sec. 58-44. Additional requirements for the purchase of derelict motor vehicles by second hand dealers and salvage motor vehicle dealers.**

In addition to the requirements set forth in Sec. 58-35, a second hand dealer or salvage motor vehicle dealer shall in addition to the recording requirements set forth in F.S.S. 319 relating to the purchase of derelict motor vehicles obtain the following information and document it as part of record:

1. Photograph all four side of the derelict motor vehicle to include the vehicle identification number and;
2. Photograph the seller and;
3. Photograph the vehicle and document the make, model and the state license numbers of the vehicle in which the was delivered;
4. Notify the Police Department within 24 hours of the transaction and provide electronic copy of records pertaining to the transaction and;

**Sec. 58-45 Severability.**

Should any word, phrase, sentence, subsection or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section so held shall be severed and all other words, phrases, sentences, subsections, or sections shall remain in effect.

**Sec. 58-46. Administration of article.**

The procedures involved in the implementation of this article shall be coordinated by the city manager and the chief of police. Any changes to such procedures shall be accomplished by resolution of the city commission.

- Section 2.** That all sections of Chapter 58 of the Palatka Municipal Code be renumbered accordingly to accommodate the changes described in this Ordinance, if necessary.
- Section 3.** That all ordinances or parts of ordinances in conflict therewith are hereby repealed to the extent of such conflict.
- Section 4.** That if any section or portion of a section or subsection of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section, subsection, or part of this ordinance.
- Section 5.** That this ordinance shall take effect upon its passage as provided by law.
- Section 6.** That a copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

**PASSED AND ADOPTED** by the City Commission of the City of Palatka on second reading this 23<sup>rd</sup> day of February, 2012.

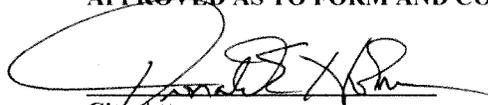
**CITY OF PALATKA**

By:   
Its MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

  
City Attorney