

Resolution No. 1849

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, DECLARING AS A PUBLIC RECORD A DOCUMENT ENTITLED "AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES" (SAID DOCUMENT BEING ADOPTED BY REFERENCE IN ORDINANCE NO. 1849); AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, ARS §9-802 provides for the adoption by reference of particularly lengthy or complex ordinances when they are declared to be "public records" and

WHEREAS, it is common practice for such public records to be so designated by resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, THAT:

1. That certain document entitled "Auctions, Junk Dealers and Dealers of Used Articles" of the Prescott Valley Town Code (said document being adopted by reference in Ordinance No. 776) is hereby declared to be a "public record" pursuant to ARS §9-801(3), and may, therefore, be adopted by reference according to ARS §9-802. Said document is available for public inspection at the Office of the Town Clerk, 7501 East Civic Circle, Prescott Valley, Arizona, 86314.

2. This Resolution shall be effective after its passage and approval according to law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 22nd day of August, 2013.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES

SECTION ONE. That Article 8-05 “AUCTIONS, JUNK DEALERS, SCRAP METAL DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code of the Town of Prescott Valley, Arizona, be hereby renamed “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES.”

SECTION TWO. That Section 8-05-010 “Definitions” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby amended to read as follows:

8-05-010 Definitions.

Unless otherwise provided, the following definitions shall apply to the provisions of this Article:

...

~~F. — Scrap Metal Dealer: any person, or business entity including all employees of the person or business entity, except automotive recyclers as defined and licensed pursuant to A.R.S. title 28, ch. 10 (A.R.S. § 28-4301 et seq.), and whose primary business is the dismantling, selling or disposing of parts or accessories of motor vehicles, engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or cast-off material of any kind, except used beverage containers, which is commonly known as scrap metal.~~

G.F. Trade-in: the acceptance, sale or disposal of used appliances, used automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobile parts taken in part payment for reconditioned automobile tires or automobile batteries or farm implement parts or farm machinery parts or road equipment parts or mining equipment parts or automobile parts, and dealers exchanging articles in the course of service of construction work shall not be deemed to constitute the doing of any business defined under this term.

(Ord. No. 193, Enacted, 11/10/88; Ord. No. 407, Amended, 11/21/96; Ord. No. 627, Amended, 06/09/05; Ord. No. _____, Amended, _____)

SECTION THREE. That Section 8-05-040 “License Fees” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby amended to read as follows:

8-05-040 License Fees.

It is unlawful for any Auctioneer, Junk Dealer, ~~Scrap Metal Dealer~~ or Dealer of Used Articles to conduct business without first obtaining a license pursuant to this Article. This license is in addition to the General Business License pursuant to Town Code Sections 8-02-030 and 8-02-

070 (as amended). The license fee for the initial license and all license renewals is \$20.00 and shall be non-refundable.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. _____, Amended, _____)

SECTION FOUR. That Section 8-05-110 “License Fees” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby repealed in its entirety and reenacted to read as follows:

8-05-110 ~~Special Requirements – Scrap Metal Dealers.~~ Reserved.

~~A person applying for a license under this Article to operate as a scrap metal dealer shall comply with all requirements contained in A.R.S. §§44-1641 through 44-1646 as amended or as may be amended.~~

(Ord. No. 627, Enacted, 06/09/05; Ord. No. _____, Rep&ReEn. _____)

SECTION FIVE. That Section 8-05-140 “Police Officer Hold on Property” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby amended to read as follows:

8-05-140 Police Officer Hold on Property.

- A. Whenever any peace officer has probable cause to believe that property in the possession of a dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ten (10) days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice mailed to the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house within two days, excluding weekends and Town holidays. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable. During the hold period the dealer of used articles, junk dealer, ~~scrap metal dealer~~ or auction house shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house shall tag and mark the item placed on hold with the following information: date and time of hold, name of law enforcement agency placing the hold, and law enforcement report number. A dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house shall not be subject to civil liability for compliance with this section.

- B. Whenever property that is in the possession of a dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house is subject to a hold and the property is required by a peace

officer in a criminal investigation, the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency or which the peace officer placing the hold on the property is a member.

C. Whenever property that is in the possession of a dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

1. With respect to the property being held, if the law enforcement agency no longer has probable cause to believe that the property on hold is stolen, the hold shall be released.
2. If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency may give written notification to the person who reported the stolen property of the name and address of the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house holding the property, and may authorize the release of the property to that person and advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property. A copy of the notice with the address of the claimant deleted shall be mailed to the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house in possession of the property. The person who reported the stolen property shall present a police hold release to the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house prior to the person receiving the item. Notwithstanding the foregoing, if the alleged owner does not choose to participate in the prosecution of an identified alleged thief, the alleged owner shall pay the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house the "out of pocket" expenses paid in the acquisition of the allegedly stolen property in return for the surrender of the property. If no action is taken to recover the property by the person who reported the property stolen within sixty days after the date that the notice was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house that the property may be stolen property, the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house in possession of the property may treat the property as regularly acquired in the due course of business.
3. If a pledgor seeks to redeem property that is subject to a hold, the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house shall advise the pledgor of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.

D. Whenever any property is taken from a dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house by a peace officer which is alleged to be stolen property, the police officer shall give the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house a receipt for the property which shall contain an accurate description of the property, including brand name and serial number, if any, the reason for seizure, and the names of the dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house, and the officer.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. _____, Amended, _____)

SECTION SIX. That Section 8-05-150 “Hours of Operation” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby amended to read as follows:

8-05-150 Hours of Operation.

No dealer of used articles, junk dealer, ~~scrap metal dealer~~, or auction house shall operate between the hours of 12:00 A.M. and 6:00 A.M.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. _____, Amended, _____)

SECTION SEVEN. That Section 8-05-160 “Transactions with Minors” in Article 8-05 “AUCTIONS, JUNK DEALERS AND DEALERS OF USED ARTICLES” in Chapter 8 “BUSINESS” of the Town Code be hereby amended to read as follows:

8-05-160 Transactions with Minors.

No dealer of used articles, junk dealer, ~~scrap metal dealer~~, or operator or employee of an auction house shall enter into transactions, trades, exchanges or purchases of tangible personal property with persons who are less than eighteen (18) years of age unless such persons are accompanied by a parent or guardian or unless a parent or guardian personally delivers to the dealer a written statement expressly authorizing the dealer to enter into transactions with the minor.

(Ord. No. 627, Enacted, 06/09/05; Ord. No. _____, Amended, _____)