

ORDINANCE NO. 602

AN ORDINANCE REGULATING SALVAGE YARDS AND
SALVAGE DEALERS IN THE CITY OF SUMNER, ILLINOIS

RECITALS

WHEREAS, the City of Sumner, Illinois (City) is a duly organized and existing municipality under the laws of the State of Illinois; and

WHEREAS, the City has the power and authority to adopt and enforce regulations incidental to the business of dealers in junk, dismantled or wrecked motor vehicles or parts thereof, rags, and any second-hand articles whatsoever, pursuant to Section 11-42-3 of the Illinois Municipal Code (65 ILCS 5/11-42-3), and its general police powers to protect the public health, safety and general welfare of residents; and

WHEREAS, the operation of salvage yards in the City contributes to an increase of public health and safety risks that require the services of law enforcement, fire prevention, and public health officers; and

WHEREAS, the Corporate Authorities have determined that it is necessary to enact regulations for the operation of salvage yards in the City to protect the health, safety and general welfare of residents.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Sumner, Illinois, as follows:

Article I
Incorporation of Recitals

The Recitals contained in the preamble of this Ordinance are incorporated in this Ordinance as if set out fully herein.

Article II
Definitions

The terms used in this Ordinance shall have the following meanings:

1. **COMBUSTIBLE MATERIALS.** Combustible, volatile, flammable, or explosive products, standing alone or combined with non-combustible or non-flammable products including, without limitation, magazines, books, pasteboard boxes, rags, paper, sawdust, packing material, shavings, boxes, and all materials that will ignite through contact with ignition sources or ordinary temperatures.

2. **DAYS.** Calendar days unless specifically set forth in this Ordinance.

3. ENFORCEMENT OFFICER. The Chief of Police, his authorized deputy or representative, or the official hereafter designated by the Corporate Authorities to be responsible for the enforcement of this Ordinance.

4. IGNITION SOURCES. Open flames, hot ashes or cinders, smoldering coals, or greasy or oily substances susceptible to spontaneous ignition.

5. LICENSEE. Any person or entity issued a salvage yard license pursuant to this Ordinance.

6. SALVAGE. Salvage shall include the following combustible and non-combustible materials:

- (a) Scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead, or other base metals;
- (b) Refrigerators and refrigerator liners, and all other domestic and commercial appliances;
- (c) Scrap lumber, old rope, boxes, rags, newspaper, scraps of woolens, rubber and glass;
- (d) Empty bottles of different kinds and sizes;
- (e) Any wrecked or dilapidated motor vehicles or parts, engine, or machinery received, stored or held for more than 90 days;
- (f) All articles and objects discarded or no longer used as a manufactured article, composed of or consistent with any one or more of the materials or articles listed in subparagraphs (a) through (e) of this definition.

7. SALVAGE DEALER. Any person or entity primarily engaged in the business of buying, selling, bartering, or exchanging, or that collects, receives, stores or holds in possession for sale, barter, or exchange, any salvage.

8. SALVAGE YARD. Any premises on which a salvage dealer is engaged in the business or buying, selling, bartering, exchanging or collecting, receiving, storing or hold in possession for a sale, barter or exchange any salvage. However, "Salvage Yard" shall not include residential premises or a facility that operates as a center solely for recycling aluminum cans, glass bottles, plastic containers or other similar objects; provided that any salvage situated upon a residential premises shall be stored entirely within an enclosed building.

9. SALVAGE YARD LICENSE. A license issued for a salvage yard pursuant to the provisions of this Ordinance.

Article III
Salvage Yard Licenses

1. A salvage yard license shall be required to establish, operate or maintain a salvage yard within the City.

2. Except as provided in paragraph 6 of this Article with regard to salvage yards existing prior to the effective date of this Ordinance, it shall be unlawful for any person or entity not having a current and valid salvage yard license to establish, operate or maintain a salvage yard within the City at any time after the effective date of this Ordinance.

3. It shall be unlawful for any licensee to establish, operate or maintain a salvage yard within the City except in the manner authorized by, and in compliance with, the provisions of this Ordinance and the licensee's salvage yard license.

4. Every salvage yard license shall be issued by the City and shall, at a minimum, state on its face the name of the licensee, the expiration date of the license, and the address of the salvage yard. Every salvage yard licensee shall cause the salvage yard license to be displayed in plain view in a conspicuous place so that it can be easily seen and read at any time by any person entering the salvage yard.

5. Except as hereinafter provided, salvage yard licenses shall be operative and valid, unless first terminated, suspended or revoked, for a term of one year commencing on January 1 of the year following the year of issuance and terminating on December 31 of that same year. Salvage yard licenses issued after January 1 of any year for operations to commence in that year shall be operative and valid, unless first terminated, suspended or revoked, for a term commencing on the date of issuance and terminating on December 31 of that same year.

6. The following provisions apply to any salvage yard existing and operating on or prior to the effective date of this Ordinance:

(a) A salvage yard existing and operating on or prior to the effective date of this Ordinance may continue to exist and operate as of the effective date; provided, however, that an existing establishment shall submit an application for a salvage yard license not later than 90 days after the effective date; shall cease operations not later than 120 days after the effective date unless a salvage yard license has been secured; and shall comply with, and continue at all times to comply with the requirements of subparagraph (b) of this paragraph.

(b) An existing salvage yard shall, not later than 90 days after the effective date of this Ordinance be subject to the provisions of Article IV, and in full compliance with Article VII, and shall at all times continue to comply with these provisions.

7. A salvage yard's license may be renewed only by making application as required for the initial license pursuant to Article IV of this Ordinance. Application for renewal shall be made at least 30 days before the expiration of the then-current license term. The expiration of a

license shall not be affected or extended by a renewal application that is made less than 30 days before expiration.

Article IV
License Application

1. An application for a salvage yard license, or the renewal thereof, shall be in writing to the Enforcement Officer on a form prescribed by the City and shall be signed by one of the following persons:

- (a) The applicant, if the applicant is an individual;
- (b) At least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all other such persons, if the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization;
- (c) A duly authorized agent, if the applicant is a corporation.

2. Every first-time applicant for a salvage yard license shall pay an administrative processing fee in the amount of \$250.00 to the City at the time the application is filed. Every applicant for the renewal of an existing salvage yard license (not previously expired, revoked or suspended) shall pay an administrative processing fee in the amount of \$50.00 to the City at the time the renewal application is filed. The administrative processing fee shall in all cases be non-refundable and shall be deposited in the general corporate fund of the City.

3. Each application shall include the following information:

- (a) Name of applicant.
 - (i) If the applicant is an individual, the applicant shall provide the applicant's legal name, business and home address, and telephone number.
 - (ii) If the applicant is a corporation, the applicant shall provide the applicant corporation's complete name and official business address; the legal name, business address and telephone number of the president of the corporation; the corporation's tax identification number; the name of the registered corporate agent and the address of the registered office for service of process; and proof that the corporation is in good standing and authorized to conduct business in the State of Illinois.
 - (iii) If the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the profits of the organization, the applicant shall provide the

organization's complete name and official business address; the legal name and business address of each partner (other than limited partners) or any other person entitled to share in the profits of the organization.

- (b) Managers. If the manager is other than the applicant, the name, business and home address, and telephone number of the individual or individuals who shall be the day-to-day, on-site managers of the salvage yard.
- (c) Location. The location, including street address and telephone number of the premises for which the salvage yard license is sought.
- (d) Name. The specific name of the business that is to be operated under the salvage yard license.
- (e) Property Owner. The identity of each fee simple owner of the licensed premises.
- (f) Legal Description. The legal description of the premises where the salvage yard is to be located, and the site plan depicting the size and approximate location of each entrance and exit, principal building and structures, fencing and screening walls, and locations for outside storage of salvage.
- (g) Other Salvage Yard Licenses. The name of each governmental body from which, within 5 years immediately prior to the date of the present application, and the applicant, or any of the individuals identified in the application pursuant to this Article, has received a license or other government authorization to conduct or operate a business substantially the same as a salvage yard.
- (h) Revocations. Whether the applicant, or any of the individuals identified in the application pursuant to this Article, has had a license or other government authorization to conduct or operate a business substantially the same as a salvage yard revoked or suspended, and, if so, the date and grounds of each such revocation or suspension, and the name and location of the salvage yard at issue.

4. Any application for a salvage yard license that does not include the information required pursuant to this Article and the administrative processing fee required herein, shall be deemed incomplete and shall not be acted on or processed by the City. The Enforcement Officer shall, within 5 days of the submittal of an incomplete application, return the incomplete application to the applicant with a written explanation of why the application is incomplete.

Article V
License Application Review

1. The Enforcement Officer shall issue a salvage yard license to an applicant if he finds and determines, based upon the application and supporting documents, investigations, and inspections, that:

- (a) All information and documents required by this Ordinance for issuance of a salvage yard license have been properly provided and the materials statements made in the application are true and correct;
- (b) No person identified in the application is overdue on payment to the City of any taxes, fees, fines, utility charges, or penalties assessed against, or imposed on, any such individual;
- (c) The salvage yard and the proposed operation of the salvage yard complies with all then-applicable municipal ordinances.

2. An applicant for a salvage yard license shall cooperate fully in the inspections and investigations conducted by the Enforcement Officer or his authorized representatives. The applicant's failure or refusal to give any information reasonably relevant to the review of the application; to allow the proposed or existing salvage yard to be inspected; or to otherwise cooperate with the investigation and inspection required by this Ordinance shall be grounds for denial of the license.

3. The Enforcement Officer shall, within 30 days after submittal of a properly completed application, or within such other period of time as the City and the applicant may otherwise agree, either issue a salvage yard license or deny the issuance of a salvage yard license pursuant to the provisions of this Ordinance.

4. If the Enforcement Officer determines that the applicant has not met any one or more of the conditions set forth in this Ordinance for the issuance of such a license, the enforcement officer shall give the applicant a written notification and explanation of such denial. The notice of denial shall be delivered in person or by U.S. mail, postage prepaid, addressed to the applicant's address as set forth in the application.

5. If the Enforcement Officer denies the issuance of a salvage yard license, the applicant may, within 30 days of receipt of the Notice of Denial, submit a written request to the City Clerk that a review hearing be conducted by the Corporate Authorities at its next regularly scheduled meeting. At the hearing, the applicant may present and submit any evidence relevant to a review of the enforcement officer's decision. The Corporate Authorities, by a majority vote, shall affirm the Enforcement Officer's denial of the application, or authorize the issuance of a salvage yard license to the applicant. The Enforcement Officer's denial of an application shall be deemed final if the applicant fails to request a review by the Corporate Authorities, as provided herein, within 30 days of the Notice of Denial.

Article VI **Inspections**

1. The Enforcement Officer and any other duly authorized City representative shall periodically inspect all salvage yards as may be necessary to determine compliance with the provisions of this Ordinance and all other applicable law.
2. A licensee shall permit representatives of the City to inspect the salvage yard for the purpose of determining compliance with the provisions of this Ordinance at any time during which the salvage yard is occupied or open for business.
3. It shall be unlawful for the licensee, any salvage yard employee, or any other person to prohibit, interfere with, or refuse to allow any lawful inspection conducted by the City pursuant to this Ordinance. Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of a salvage yard license as provided herein.

Article VII **Regulations for Operation**

1. General Compliance. All salvage yards shall comply with the provisions of this Ordinance; all other applicable City ordinances, resolutions, rules and regulations; and all other applicable federal, state and local laws.
2. Hours of Operation. It shall be unlawful for any salvage dealer to purchase in the course of business and accept delivery of any salvage from any person between the hours of 10:00 p.m. and 6:00 a.m. It shall be unlawful for any salvage dealer to gather, or cause to be collected or gathered in any way, any salvage from a location other than the salvage yard between the hours of 10:00 p.m. and 6:00 a.m.
3. Fences. All salvage yards shall be enclosed by a fence in good repair, not less than 8 feet in height, constructed so as to be reasonably insurmountable by children. The fence shall be a solid, non-transparent wall or a tight board fence in a neatly painted condition and constructed of materials approved by the Enforcement Officer.
4. Licensed Premises. No salvage yard shall be allowed to operate on any property other than the licensed premises.
5. Purchases from Minors. No salvage dealer at any salvage yard shall purchase any salvage, ~~except cans, bottles, rags, newspaper and waste paper, from any minor without the~~ consent of the parent or guardian of such minor, given in the presence of the salvage dealer.
6. Ignition Sources. No person at any salvage yard shall deposit ignition sources into any combustible receptacle or placed within 15 feet of any combustible materials.
7. Welding and Cutting Operations. Welding and cutting operations and equipment at any salvage yard shall comply with all local ordinances and other applicable federal and state laws. Welding and cutting operations and equipment shall only be performed at any salvage

yard by the salvage dealer or such other individual authorized to conduct welding and cutting operations by the salvage dealer.

8. Weed Maintenance and Abatement. No weeds or grass at any salvage yard shall be allowed to grow in excess of 8 inches. The salvage yard licensee shall be responsible for cutting and otherwise maintaining the weeds and grass in a neat and orderly condition.

Article VIII
License Revocation and Suspension

1. Pursuant to the procedures set forth in paragraph 2 of this Article, the Enforcement Officer may revoke or suspend any salvage yard license if, based on credible and reasonably reliable information and evidence, he determines that any one or more of the following has occurred:

- (a) The licensee has violated any of the provisions or requirements of this Ordinance or the salvage yard license issued pursuant to this Ordinance.
- (b) The licensee knowingly or negligently furnished false or misleading information or withheld information on any application or other documents submitted to the City for the issuance or renewal of any salvage yard license; or knowingly or negligently caused any other person to furnish or withhold any such information on the licensee's behalf.
- (c) The licensee has committed a felony on the licensed premises.
- (d) The licensee authorizes, approves, or, as a result of a licensee's negligent failure to supervise the salvage yard, allows an employee to violate any of the provisions or requirements of this Ordinance or the provisions or requirements of the salvage yard license issued pursuant hereto; or commits any felony on the licensed premises.

2. A salvage yard license may be revoked or suspended pursuant to the terms and conditions set forth in this paragraph.

- (a) Upon determining that one or more of the grounds for suspension or revocation under this Article may exist, the Enforcement Officer shall serve a written notice on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. The written notice shall, at a minimum, state that the enforcement officer has determined that the salvage yard's license may be subject to suspension or revocation pursuant to this Article; identify the specific grounds for the Enforcement Officer's determination; and set a date for a hearing regarding the Enforcement Officer's determination as to the possibility of suspension or revocation of the salvage yard license. The date of the hearing shall be not less than 5 days after service of the Enforcement Officer's notice, unless an earlier or later date is agreed to by the licensee and the Enforcement Officer.

(b) The hearing shall be conducted by the Enforcement Officer. At the hearing, the licensee may present and submit evidence and witnesses to refute the grounds cited by the Enforcement Officer for suspending or revoking the license, and the City and any other persons may submit evidence to sustain such grounds. Within 3 days after the close of the hearing, the Enforcement Officer shall render a decision in writing, setting both the reasons for the decision. Any action taken by the Enforcement Officer shall be final, unless the licensee requests a review as provided herein.

3. The Enforcement Officer's written decision shall be posted at City Hall and shall be served on the licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application. Any suspension or revocation, as the case may be, shall take effect on the 31st day after the date of the notice of suspension or revocation, unless the licensee requests a review of the decision as provided herein.

4. Upon the issuance of a notice of suspension or revocation by the Enforcement Officer, the licensee may request in writing a hearing before the Corporate Authorities. The licensee's written request and any supporting documents must be filed with the City Clerk not later than 30 days after the date of the notice of suspension or revocation. At its next regularly scheduled meeting, the Corporate Authorities may, by a majority vote, affirm or rescind the suspension or revocation. If the Corporate Authorities uphold the Enforcement Officer's decision to suspend or revoke the license, the suspension or revocation shall take effect immediately.

5. Upon the suspension or revocation of a salvage yard license pursuant to this Article, the Enforcement Officer shall take custody of the suspended or revoked license.

Article IX **Penalty**

In addition to any other action authorized by this Ordinance, any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Ordinance or of any of the provisions or requirements the salvage yard license, shall be fined a minimum of Two Hundred Dollars (\$200.00) for each such violation. Each day such violation continues shall constitute as a separate offense. The Enforcement Officer shall give written notice to any such person or any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the licensee's address as set forth in the licensee's application.

Article X **Nuisance**

Any salvage yard established, operated, or maintained in violation of any of the provisions or requirements of this Ordinance, or of any salvage yard license shall be, and the same is, declared to be unlawful and a public nuisance. The City may, in addition to or in lieu

of any other remedies set forth in this Ordinance, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating or maintaining a salvage yard contrary to the provisions of this Ordinance.

Article XI
Severability

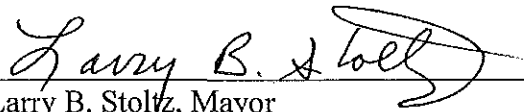
In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or if said provision is applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid or ineffective provisions not been included herein.

Article XII
Effective Date

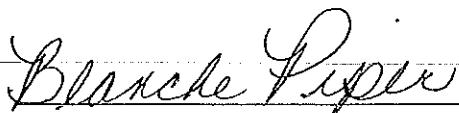
This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED and ADOPTED by the City Council of the City of Sumner, Illinois and APPROVED by the Mayor this 6th day of December, 2011.

VOTE: 4 Ayes 2 Nays 0 Absent 0 Abstain


Larry B. Stolz, Mayor
City of Sumner, Illinois

Attest:


Blanche Piper, City Clerk
City of Sumner, Illinois