

## Chapter 5.41

### SALVAGING, RECYCLING AND COMPOSTING OPERATIONS

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#### 5.41.010 General Definitions.

The following words as used in this chapter shall have the following meanings:

**BIODEGRADABLE** shall mean material capable of decomposing or deteriorating to simple gasses, organic compounds or other harmless components after exposure to natural elements for not more than one year.

**CHIEF OF POLICE** shall mean the chief of the Lincoln Police Department or a designee of the Chief of Police.

**COMMERCIAL COMPOSTING OPERATION** shall mean any premises that is maintained, used, or operated wholly or partially for accepting, receiving or otherwise utilizing organic materials that originated or are derived off the premises for composting on the premises.

Commercial composting operation includes any profit or not for profit operation that collects or accepts organic materials from a premises other than the premises where the composting occurs.

**COMPOSTING** shall mean the controlled aerobic, thermophilic, microbial degradation of organic material to a stabilized, humus-like material. Composting shall not include land application of organic material that is worked into the soil.

**CONSUMER RECYCLABLES** shall mean:

(1) Containers capable of holding six gallons or less made of glass, aluminum, plastic or tin;

(2) Newspapers and other office or household waste paper; and

(3) Other recyclables designated in writing, approved by the Director, and on file at the Health Department.

**DIRECTOR** shall mean the Health Director of the Lincoln-Lancaster County Health Department or an authorized representative of the same.

**DWELLING UNIT** shall mean any building or portion thereof that is designed and used for residential purposes.

**ESTABLISHED PLACE OF BUSINESS** shall mean a permanent business location that conforms with applicable zoning laws at which the facility conducts its business and may be accessed by the public during posted reasonable business hours which shall not be less than forty hours per week.

**HIGH VALUE SALVAGE MATERIAL** shall mean any copper, bronze, brass, and aluminum, whether scrap metal or recyclable metal, with the exception of aluminum cans.

**HIGH VALUE SALVAGE COLLECTOR** shall mean any person not having a premises as defined in this section who gathers, collects, buys, sells or otherwise deals in any high value salvage material.

**NON-OPERATING** shall mean the object cannot be immediately moved or used for its designed purpose, without alteration or repair.

**OPERATOR** shall mean any person engaged in the activities of owning or operating any of the following operations as defined herein: salvage, recycling processing center, recycling center, recyclables drop-off, or commercial composting. Operator shall not include a high value salvage collector.

**ORGANIC MATERIALS** shall mean any biodegradable: lawn clippings and leaves; raw sewage or treated sewage sludge; animal or paunch manure; any other plant or food residue; or a mixture of any of the above.

**PERSON** shall mean an individual, corporation, organization, limited liability company or other legal entity.

**PREMISES** shall mean a tract of land used for any operation or activity regulated under this chapter consisting of one platted lot or irregular tract or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

**RECYCLABLES** shall mean the following materials that, for the purpose of recycling, are separated or otherwise diverted from waste destined for disposal: wood, paper, glass, plastics, metals, automobile oil, tires, and batteries. Refuse derived fuels or other materials that are destroyed by incineration are not recyclables. Salvage material as defined herein is not a recyclable.

**RECYCLABLES DROP-OFF OPERATION** shall mean any premises that is maintained, used, or operated wholly or partially for collecting any consumer recyclables that originated off the premises where the recycling occurs; provided that there is no mechanical equipment for separating

or modifying recyclable materials used or stored on the premises. Recyclables drop-off operation shall not include:

(1) Any business or operation accepting consumer recyclables without charge or payment therefor as a courtesy to its customers and as an incidental part of their ongoing business;

(2) Any properly equipped motor vehicle service station or repair shop accepting motor vehicle waste oil or automotive batteries as an incidental part of their ongoing business.

**RECYCLING** shall mean accepting, processing, storing, holding, keeping, receiving, reusing, collecting, dealing, buying, selling, or separating recyclables. Recycling shall not include electrical or chemical modifying; or any type of wrecking, converting or dismantling of recyclables.

**RECYCLING CENTER** shall mean any premises that is maintained, used, or operated wholly or partially for recycling any consumer recyclables that originated off the premises where the recycling occurs.

Recycling Center includes both profit and not for profit operations.

**RECYCLING PROCESSING CENTER** shall mean any premises that is maintained, used, or operated wholly or partially for recycling any recyclables that originated off the premises where the recycling occurs. Such recycling may include mechanical equipment for separating or modifying recyclable materials. Such modifying shall be limited to cutting, crushing, breaking, baling, and shredding.

Recycling Processing Center includes both profit and not for profit operations.

**SALVAGE MATERIAL** shall include:

(1) Dismantled, non-operating or wrecked automobiles, trucks, trailers, equipment, machinery, mobile homes, tractors, or farm machinery, appliances, other vehicles or parts thereof; or

(2) Scrap metals including iron, steel, and any other metallic materials except recyclables as defined herein;

**SALVAGE OPERATION** shall mean any premises that is maintained, used, or operated wholly or partially for storing, holding, keeping, receiving, reusing, wrecking, dismantling, recycling, collecting, dealing, buying, or selling either salvage material or high value salvage material.

Salvage operation may include any activities of a Recycling Processing Center Operation as defined herein and may store, hold, keep, receive, reuse, wreck, dismantle, recycle, collect, deal, buy, or sell recyclables. Such activities shall be subject to all operating requirements applicable to salvage operations.

Salvage operation shall not include premises where used parts are sold but no wrecking or dismantling occurs nor shall it include any City of Lincoln public disposal facility.

**TRANSACTION** shall mean purchase, receipt, deposit, or take in trade. (Ord. 18831 §1; October 23, 2006; prior Ord. 16602 §1; May 2, 1994).

#### **5.41.020 Permit Required; Penalty.**

It shall be unlawful for any person to engage in, carry on, conduct, operate, or maintain a salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation within the city, or three miles thereof, without first having obtained a written permit from the Director for such activities. (Ord. 18831 §2; October 23, 2006; prior Ord. 16602 §2; May 2, 1994).

**5.41.030 Permit; Application, Investigation.**

(a) Any person may apply for a permit to operate or maintain a salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation within the city, or three miles thereof, by submitting the application information requirements together with the related permit fee and occupation tax, if any, to the Director.

(b) The Director shall review such application information and upon payment of the related permit fee and occupation tax, if any, shall issue such permit within a reasonable time not to exceed sixty days if such operation is or will be in compliance with all requirements of this chapter and all other applicable city ordinances and regulations.

(c) Investigations shall be made by the necessary city departments to determine whether any such operation will be in compliance with all requirements of this chapter and all other applicable city ordinances and regulations. (Ord. 16602 §3; May 2, 1994).

**5.41.040 Application Information Requirements.**

(a) The applicant for a salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation permit shall complete forms provided by the Director, supplying at a minimum, the following information:

- (1) The name and address of the applicant;
- (2) The exact location of the premises;
- (3) The exact nature of the activities related to the permit;
- (4) The location and dimensions of any buildings on the premises, including any building to be used, in whole or in part, in the permitted activities; and
- (5) Such other pertinent information as requested on such forms.

(b) For existing permit holders, application information shall be included on forms for renewal provided by the Director to verify and update such information. (Ord. 18831 §3; October 23, 2006; prior Ord. 16602 §4; May 2, 1994).

**5.41.050 Salvage, Recycling, or Composting Operations; Permit; Fee.**

(a) The City Council may, by resolution, from time to time establish or revise fees for the following permit applications:

- (1) Salvage
- (2) Recycling Processing Center Operations
- (3) Recycling Center Operations
- (4) Recyclables Drop-off Operations
- (5) Commercial Composting Operations

Such fees when so established or revised shall be used exclusively for the purpose of administering, operating, and enforcing the provisions of this chapter. All fees collected under the provisions of this chapter shall be deposited with the City Treasurer who shall credit them to the Health Fund.

(b) A permit holder who fails to renew the permit before it expires, but within thirty days of the date of expiration shall pay a late fee of 33% of the annual fee in addition to the annual fee.

(c) A permit holder who fails to renew the permit before it expires and fails to renew the permit within thirty days from the date of expiration shall pay a late fee of 67% of the annual fee in addition to the annual fee.

(d) A permit holder still in operation who fails to renew the permit before it expires is operating without a valid permit and shall be subject to closure or other appropriate enforcement action by the Health Director.

(e) Such permit fees are non-refundable. (Ord. 20070 §1; August 18, 2014: prior Ord. 19787 §1; October 8, 2012: Ord. 19610 §1; September 12, 2011: Ord. 19448 §1; September 13, 2010: Ord. 19303 §1; September 14, 2009: Ord. 19140 §1; September 15, 2008: Ord. 18984 §1; August 27, 2007: Ord. 18831 §4; October 23, 2006: Ord. 16602 §5; May 2, 1994).

#### **5.41.060 Occupation Tax.**

There is hereby levied upon the business of every person engaged in the business of operating or conducting any salvage operation or commercial composting operation an occupation tax of \$160.00 per year. The City Treasurer shall place forty percent of such tax receipts in the General Fund for Building and Safety purposes and the remainder in the Health Department Fund. The year for which such occupation tax is levied shall commence on the first day of August and shall end on the thirty-first day of July next succeeding, and such occupation tax shall not be prorated; the tax for the remaining portion of said year shall be \$80.00. (Ord. 19787 §2; October 8, 2012: prior Ord.19610 §2; September 12, 2011: Ord. 19448 §2; September 13, 2010: Ord. 19303 §2; September 14, 2009: Ord. 19140 §1; September 15, 2008: 18984 §2; August 27, 2007: prior Ord. 18831 §5; October 23, 2006: Ord. 16602 §6; May 2, 1994).

#### **5.41.070 Occupation Tax Payment; Late Fee; Penalty.**

It is hereby made the duty of every person engaged in the business of operating or conducting any salvage operation or commercial composting operation to pay the City Treasurer the above occupation tax as follows:

(a) All applicants for new or renewal permits shall pay such occupation tax at the time of application or renewal.

(b) If the tax remains unpaid after expiration, but within thirty days of the date of expiration, of any permit required for the continuing operation of such business, such business shall pay a late fee of 33% of the tax owed, in addition to the tax.

(c) If the tax remains unpaid after expiration of any permit and is not paid within thirty days of the of the date of expiration required for the continuing operation of such business, such business shall pay a late fee of 67% of the tax owed, in addition to the tax.

(d) A permit holder who fails to pay the occupation tax before it is due is operating without a valid permit and shall be subject to closure or other appropriate enforcement action by the Health Director. (Ord. 19140 §3; September 15, 2008: prior Ord. 18984 §3; August 27, 2007: Ord. 18831 §6; October 23, 2006: Ord. 16602 §7; May 2, 1994).

#### **5.41.080 Permit; Expiration.**

All salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation permits granted under this chapter shall expire on the thirty-first day of July following the date of issuance. (Ord. 18831 §7; October 23, 2006: prior Ord. 16602 §8; May 2, 1994).

#### **5.41.090 Permit; Revocation and Suspension.**

(a) The Director may revoke or suspend any salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation permit granted under this chapter if the Director determines:

(1) The permittee has failed to comply with this chapter or any provision of law applicable to the premises, equipment, or operation of the permitted operation; or  
(2) The permittee has obtained his or her permit through any fraud or misstatement;  
or

(3) The permitted operation is being conducted in a manner detrimental to the health, safety, or general welfare of the public, or is a nuisance, or is being operated in any unlawful manner; or

(4) The permitted operation is no longer being operated by the permittee; or

(5) The permittee has failed to update with the Director any changes in the information represented on his or her permit application; or

(6) The permitted operation has received any high value salvage material from an individual who has been identified by the Lincoln Police Department, through written notice to the permittee by delivery in person or certified mail to the address provided in the application, to be in violation of Section 5.41.240 of this chapter.

(b) A salvage operation or recycling processing center operation permit shall not be suspended or revoked for failure to comply with the requirements under Section 5.41.210 or 5.41.220, if such failure is due to mistake or inadvertence, except as provided in Section 5.41.090(b). If any such failure to comply is discovered, the Director or Chief of Police shall notify the permit holder of such deficiencies and shall afford the permit holder a reasonable opportunity and time, not exceeding thirty days, to correct said deficiencies. If a permit holder has been given three or more opportunities during any two-year period to correct such deficient record-keeping practices, its permit to operate may be suspended or revoked.

(c) Such suspension or revocation shall state in writing the reasons for the same and shall notify the permittee of the opportunity for hearing provided in Section 5.41.100.

(d) Such suspension or revocation may be delivered in person or by mail to the address provided in the application or by any other suitable and effective means.

(e) No suspension or revocation shall be effective until after the ten- day period provided for appeal. If an appeal is filed it shall operate as a stay to such suspension or revocation until the appeal is heard by the Director. Appeals of the Director's final decision may be appealed as provided by state law.

(f) Nothing in this section shall limit the authority of the Director to take any legal measure to abate any hazard or immediate threat to the public health. (Ord. 18831 §8; October 23, 2006; prior Ord. 16602 §9; May 2, 1994).

#### **5.41.100 Permit; Hearing.**

(a) Any person aggrieved by the Director granting, denying, renewing, or revoking a permit for a proposed or existing operation subject to the provisions of this chapter, may file a written request for a hearing before the Director within ten days after such action.

(b) The Director shall give notice of a public hearing upon this request to be held within thirty days after service on the person requesting the hearing. The Director may also give notice of the hearing to other interested persons.

(c) At such hearing, the Director shall determine whether the granting, denial, renewal, or revocation of the permit was in accordance with the provisions of this chapter and shall issue a written findings of fact, conclusions of law, and a written order. These findings of fact, conclusions of law, and order shall be filed by the Director and served upon all parties appearing or represented at said hearing. (Ord. 16602 §10; May 2, 1994).

#### **5.41.102 Permit Required; Penalty.**

It shall be unlawful for any individual to engage in, carry on, or operate as a high value salvage collector within the city, or three miles thereof, without first having obtained a written permit from the Chief of Police for such activities. (Ord. 18831 §9; October 23, 2006).

#### **5.41.104 Permit; Application and Investigation.**

(a) Any person applying for a high value salvage collector permit shall complete forms provided by the Chief of Police supplying, at a minimum, the following information:

- (1) The name and address of the applicant;
- (2) The applicant's mailing address;
- (3) The exact nature of the activities related to the permit;
- (4) A complete set of the applicant's fingerprints;
- (5) Such other pertinent information as requested on such forms.

(b) No permit shall be issued under subsection (a) of this section to any person who has been convicted of a theft offense as defined in Section 5.41.240 of this chapter within the last five years or to any individual under the age of sixteen.

(c) For existing permit holders, application information shall be included on forms for renewal provided by the Chief of Police to verify and update such information. (Ord. 18831 §10; October 23, 2006).

#### **5.41.106 Issuance of Permit**

(a) Each high value salvage collector permit applicant shall pay to the Chief of Police a permit fee of five dollars with each permit application. Such permit fee is non-refundable and all permits granted under this section shall expire on the thirty-first day of July following the date of issuance. All permits must be renewed annually by applying for a renewal application. Each permit shall be issued with a permit number and other identifying characteristics as the Chief of Police deems appropriate. Each permittee shall carry their permit with them at all times when gathering, collecting, buying, selling or otherwise dealing in any high value salvage material.

(b) The Chief of Police may deny the permit application if the applicant has been convicted of a crime of theft as defined in Section 5.41.240 of this chapter or if the investigation reveals that the application contains misrepresentations or false statements of material or relevant facts. In the event that the Chief of Police denies a permit, the Chief of Police shall notify the applicant in writing within thirty days of the filing of the application. (Ord. 18831 §11; October 23, 2006).

#### **5.41.108 Permit; Revocation and Suspension.**

(a) The Chief of Police may revoke or suspend any high value salvage collector permit granted under this chapter if the Chief of Police determines:

- (1) The permittee has obtained his or her permit through any fraud or misstatement;

or

(2) The permittee has failed to update with the Chief of Police any changes in the information represented on his or her permit application; or

(3) The permittee has knowingly allowed another individual to use his or her permit;

or

(4) The permittee has used another individual's permit; or

(5) The permittee has received any high value salvage material from any individual who has been identified by the Lincoln Police Department, through written notice to the permittee, by delivery in person or by certified mail to the address provided in the application, to be in violation of Section 5.41.240 of this chapter.

(b) Such suspension or revocation shall state in writing the reasons for the same and shall notify the permittee of the opportunity for hearing provided in Section 5.41.109 of this chapter.

(c) Such suspension or revocation may be delivered in person or by mail to the address provided in the application or by any other suitable and effective means.

(d) No suspension or revocation shall be effective until after the ten-day period provided for appeal. If an appeal is filed it shall operate as a stay to such suspension or revocation until the appeal is heard by the Chief of Police. Appeals of the Chief of Police's final decision may be appealed as provided by state law. (Ord. 18831 §12; October 23, 2006).

#### **5.41.109 Permit; Hearing.**

(a) Any person aggrieved by the Chief of Police granting, denying, renewing, or revoking a permit for a high value salvage collector subject to the provisions of this chapter, may file a written request for a hearing before the Chief of Police within ten days after such action.

(b) The Chief of Police shall give notice of a public hearing upon this request to be held within thirty days after service on the person requesting the hearing. The Chief of Police may also give notice of the hearing to other interested persons.

(c) At such hearing, the Chief of Police shall determine whether the granting, denial, renewal, or revocation of the permit was in accordance with the provisions of this chapter and shall issue a written findings of fact, conclusions of law, and a written order. These findings of fact, conclusions of law, and order shall be filed by the Chief of Police and served upon all parties appearing or represented at such hearing. (Ord. 18831 §13; October 23, 2006).

#### **5.41.110 General Operating Requirements.**

The operator of any operation requiring a permit under this chapter shall:

(a) Plainly display on the premises the permit issued pursuant to this chapter.

(b) Maintain the premises in a safe and sanitary condition at all times, including taking prompt action to eliminate any nuisance conditions.

(c) Arrange material so as to permit easy access to all such material for fire fighting purposes.

(d) Where outside storage of material is permitted, keep any such materials within a suitable fence. (Such fence shall be designed and maintained to prevent unauthorized entry).

(e) Remove from the premises, at reasonable times, all material other than salvage material or recyclables.

(f) Store all flammable material properly to reduce fire hazards.

(g) Where applicable, remove and collect, within ninety days after arrival at the permitted premises or prior to crushing or other salvage processing, whichever is earlier, all gasoline and batteries from any material containing the same.

(h) Where applicable, remove any chlorinated fluorocarbons from any materials containing the same: within ninety days after arrival at the permitted premises, prior to processing of the item for salvage, or prior to sale or removal from the permitted premises, whichever occurs first; provided the same may be removed for remote processing of chlorinated fluoro carbons.

(i) Where applicable and whenever possible, remove and collect oil, lubricants, batteries, gasoline and chlorinated fluorocarbons in such manner as to promote recycling or reuse of said materials.

(j) Where applicable, drain all oil and grease from motor vehicles being dismantled on the premises into a receptacle capable of holding same.

(k) Where applicable, prevent the discharge of flammable or combustible liquids or any waste liquid containing crude petroleum or its products into or upon any street, highway, drainage canal, or ditch, storm drain, sewer or flood control channel, lake or tidal waterway, or upon the ground.

(l) Where applicable, properly and promptly clean any accidental spills of petroleum products, solvents or any other hazardous or potentially hazardous substance.

(m) Comply with all applicable local, state, and federal laws, ordinances, rules, and regulations. (Ord. 16602 §11; May 2, 1994).

#### **5.41.120 Recycling Processing Center; Operating Requirements.**

(a) The operator of any recycling processing center shall:

(1) Conduct any cutting, crushing, breaking, baling, and shredding only within an enclosed structure on the premises. Such structure shall comply with all applicable fire, building, safety and health codes.

(2) Clearly designate any voluntary drop-off site area on the premises.

(3) Store recyclables, including any use of the designated voluntary drop-off site area on the premises for storage only within covered containers or under covers.

(b) The operator of any recycling processing center shall not cause or permit the following:

(1) Any mechanical, chemical, or electrical processing that changes the shape or appearance of the recyclables on the permitted premises other than cutting, crushing, breaking, baling, and shredding.

(2) Any handling, receiving or processing of hazardous materials as defined by state or federal law, without the appropriate permit or approval under such laws. (Ord. 16602 §12; May 2, 1994).

#### **5.41.130 Recycling Center; Operating Requirements.**

(a) The operator of any recycling center shall:

(1) Accept only consumer recyclables as defined in this chapter.

(2) Conduct any recycling within an enclosed structure on the premises. Such structure shall comply with all applicable fire, building, safety and health codes.

(3) Clearly designate any voluntary drop-off site area on the premises.

(4) Store recyclables, including any use of the designated voluntary drop-off site area on the premises for storage only within covered containers or under covers.

(b) The operator of any recycling center shall not cause or permit the following:

(1) Any mechanical, chemical or processing that changes the shape or appearance of the recyclables on the permitted premises.

(2) Any handling, receiving or processing of hazardous materials as defined by state or federal law, without the appropriate permit or approval under such laws and the written approval of the Director. (Ord. 16602 §13; May 2, 1994).

**5.41.140 Recyclables Drop-off; Operating Requirements.**

- (a) The operator of any recyclables drop-off operation shall:
  - (1) Accept only consumer recyclables as defined in this chapter.
  - (2) Use or provide containers for recyclables no taller than seven feet from the ground to the top of the container, except that the operator may use or provide taller containers with the Director's approval.
  - (3) Protect containers for recyclables so as to prevent water from collecting in the container and its contents.
  - (4) Store all materials in acceptable containers for recyclables provided on site.
  - (5) Provide sufficient containers and sites, adequately serviced to prevent overflow.
  - (6) Permanently display at each site at least one sign displaying:
    - (i) The name, street address, and telephone number of the operator;
    - (ii) The type or kind of recyclables accepted at the site;
    - (iii) A notice that it is illegal to: leave unacceptable material at the site; place materials outside the containers provided; remove materials left at the site; or litter.
- (b) The operator of any recyclables drop-off shall not cause or permit the following:
  - (1) Any use of semi-trailers, trailers and truck boxes not originally designed for recycling operations as containers for recyclables.
  - (2) Any mechanical separating or processing of recyclables on the premises.
  - (3) Any use or operation of powered equipment on the premises except equipment used to bring recyclables to the site, remove recyclables from the site, or maintain and clean the site.
  - (4) Any collection of recyclable materials from the premises or maintenance using powered equipment on the premises between the hours of 7:00 p.m. and 6:00 a.m. on any day. (Ord. 16602 §14; May 2, 1994).

**5.41.150 Commercial Composting Operating Requirements.**

- (a) The operator of any commercial composting operation shall:
  - (1) Prevent the release of chemical or other contaminants related to or caused by the operation that create a potential hazard or an actual detriment to the public health or the environment.
  - (2) Erect and maintain suitable fencing around the premises consisting of a wire and steel post fence or other fencing materials approved by the Director with gates to control access and discourage illegal dumping at the site.
  - (3) Properly secure or lock gates and other points of entry to the premises at all times when the premises are unattended.
  - (4) Post a sign at each gate and other point of entry to the premises that states the operator's name, address, and emergency telephone number.
  - (5) Comply with all other applicable local, state, and federal ordinances, laws, or regulations.
- (b) The operator of any commercial composting operation shall not:

(1) Conduct any composting within 750 feet to the nearest neighboring inhabitable dwelling unit located off the premises.

(2) Locate the composting premises within the 100-year flood plain or within any areas with chronic or repeated drainage problems. (Ord. 16602 §15; May 2, 1994).

#### **5.41.160 Inspections.**

All operations permitted under this chapter shall maintain their premises open for inspection during any regular business hours by the Lincoln-Lancaster County Health Department, the Lincoln Police Department, and the Lincoln Department of Building and Safety for compliance with this chapter and all other applicable provisions of law. The Director and the Director of Building and Safety shall inspect all permitted operations for compliance with this chapter and all other applicable provisions of law as they shall deem appropriate under the general supervision of the Mayor. (Ord. 18831 §14; October 23, 2006; prior Ord. 16602 §16; May 2, 1994).

#### **5.41.170 Nuisance Conditions.**

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises within the city, or within three miles of the corporate limits thereof, to conduct any recycling, composting, salvage operation, salvage yard, scrap processing, or recyclables drop-off in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) If the Director finds that conditions exist that are a detriment to the public health, safety, or welfare, or are otherwise a public nuisance, the Director shall abate the same as a public nuisance as provided in §8.26.030.

(c) Conditions detrimental to the public health, safety, and welfare related to recycling, composting, salvage operation, salvage yard, scrap processing, or recyclables drop-off operations shall include the failure to:

(1) Prevent or remove standing water likely to become a breeding place for mosquitoes.

(2) Keep weeds and vegetation on the premises, other than trees, shrubs, and vines, trimmed to a height of not more than six inches.

(3) Remove or keep from the premises any materials liable to give off a foul odor or attract vermin.

(4) Prevent recyclables, organic materials or other material from resting upon or protruding over any public street, walkway, or other public property.

(5) Prevent recyclables, organic material or other material from scattering or blowing off the premises.

(6) Prevent or remove any conditions that are conducive to the existence and breeding of rodents or insects.

(7) Take reasonable measures to prevent the access of animals including dogs, cats, skunks, opossums, or raccoons to the area related to the activity. (Ord. 16602 §17; May 2, 1994).

#### **5.41.180 Residential Recycling; Nuisance Conditions.**

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises in any residential district within the city or within three miles of the corporate limits thereof to conduct any recycling upon such premises in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) Conditions detrimental to the public health, safety, and welfare related to residential recycling shall also include:

(1) Failure to comply with all provisions of Chapter 27.70 of this code pertaining to home occupations.

(2) Recycling within twenty-five feet of any dwelling unit off the premises.

(3) Recycling that produces any odor that is detectable off the premises by an odor detection and measurement device.

(4) Holding materials collected for recycling on the premises for more than two weeks.

(5) Recycling of materials other than consumer recyclables.

(6) Accepting, receiving or permitting on the premises mixed municipal solid waste generated or derived from off the premises for the purpose of separating and sorting recyclables from such waste.

(7) Exceeding the residential noise limits described in Table 1 of Section 8.24.090 of the Lincoln Municipal Code.

(8) Burning recyclables or other materials by any means on the premises.

(9) Causing, permitting or allowing recycling or related activities between the hours of 10:00 p.m. and 7:00 a.m.

(10) Causing, permitting, or allowing the public to deposit or drop-off recyclables on the premises by maintaining or designating facilities or otherwise.

(c) Any premises found to be in violation of the above conditions is declared to be a public nuisance and may be abated by the Director in the manner provided in Section 8.26.030. (Ord. 16602 §18; May 2, 1994).

#### **5.41.190 Residential Composting; Nuisance Conditions.**

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises in any residential zone within the city, or within three miles of the corporate limits thereof, to conduct any composting upon such premises in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) Conditions detrimental to the public health, safety and welfare related to residential composting shall also include:

(1) Composting of any organic materials that are not generated or derived from the same premises.

(2) Composting activity within twenty-five feet of any dwelling unit off the premises.

(3) Composting that produces any odor that is detectable off the premises by an odor detection and measurement device.

(4) Composting that involves human body wastes; fecal or other body wastes from dogs, cats and other animals; meat or dairy organic material; raw sewage or treated sewage sludge; animal or paunch manure; or any other material that is not biodegradable.

(c) Any premises found to be in violation of the above conditions is declared to be a public nuisance and may be abated by the Director in the manner provided in Section 8.26.030. (Ord. 16602 §19; May 2, 1994).

**5.41.210 Report; Salvage Operation and Recycling Processing Center.**

(a) It shall be the duty of every salvage operation and recycling processing center to keep an individual report of every transaction of high value salvage material. The reports shall be organized by the date of transaction and shall be maintained and kept on the premises. The reports shall be open at all times during business hours to the inspection of any law enforcement officer upon request by the officer. Reports shall be kept in a form provided by the Lincoln Police Department or in a form as approved by the Lincoln Police Department.

(b) Such report shall show clearly, legibly, and in English the following information:

- (1) The date and hour of the day when each article was received;
- (2) The name and signature of the individual who handled the transaction on behalf of the salvage operation;
- (3) The signature of the customer(s);
- (4) The amount paid to the customer(s), if any;
- (5) The complete description of weight and grade of each material received;
- (6) The name, address and birthday of the customer(s), verified by any operator's license or identification card issued by any state or by the United States;
- (7) The type and issuing number of the identification used in subsection (6) above;
- (8) In lieu of the identification requirements of (6) and (7) above, the report may show the issuing number of the person's high value salvage collector permit that has been issued by the City of Lincoln, Nebraska. (Ord. 18831 §15; October 23, 2006).

**5.41.220 Fingerprint and Seventy-Two Hour Hold Required.**

(a) Every salvage operation and recycling processing center that receives, deposits, purchases or takes in trade high value salvage material shall, in addition to showing information required under Section 5.41.210(b) on an individual report, take a fingerprint from the customer's right index finger; if the right index finger is missing, the fingerprint shall be taken from the left index finger of the customer and said fingerprint shall be placed on the report.

(1) A finger print shall not be required for high value salvage material transactions with:

(i) Any person with a salvage operation, recycling processing center operation, recycling center operation, or commercial composting operation permit issued by the City of Lincoln under this chapter.

(ii) Any officer, employee or contractor acting as an authorized agent by or on behalf of a manufacturing, industrial, or commercial facility or corporation that utilizes high value salvage materials in the regular course of its primary business and has an established place of business as defined in this chapter.

(b) A salvage operation or recycling processing center shall not deface, alter, change, destroy, part with, conceal, give away, sell or dispose of any high value salvage material that has been received, deposited, purchased, or taken in trade before and until seventy-two hours after making out the report required in this chapter.

(1) A seventy-two hour hold under this subsection shall not be required for high value salvage material transactions with:

(i) Any person with a high value salvage collector permit or a salvage operation, recycling processing center operation, recycling center operation, or commercial composting operation permit issued by the City of Lincoln under this chapter.

(ii) Any officer, employee or contractor acting as an authorized agent by or on behalf of a manufacturing, industrial, or commercial facility or corporation that utilizes high value salvage materials in the regular course of its primary business and has an established place of business as defined in this chapter.

(c) Each salvage operation and recycling processing center shall display a notice to customers in a prominent location stating that the operation is required to fingerprint individual's selling high value salvage material. (Ord. 18831 §16; October 23, 2006).

#### **5.41.230 Unlawful Acts.**

It shall be unlawful for any person to do any of the following:

(1) Omit making an entry or making a false entry of any material matter in the report required by Sections 5.41.210 and 5.41.220 of this chapter;

(2) Obliterate, destroy or remove from his or her place of business the record required by Sections 5.41.210 and 5.41.220 of this chapter;

(3) Omit reporting forthwith to the Lincoln Police Department the possession of any property which he or she may have good cause to believe has been lost or stolen;

(4) Receive any property from anyone under the age of sixteen years;

(5) To lend his or her high value salvage collector, salvage operation or other permit issued under this chapter to any person or knowingly permit the use thereof by another;

(6) To display, use or represent as one's own any high value salvage collector or salvage operation or other permit issued under this chapter not issued to him or her by the City of Lincoln.

(7) Violate any provisions of this chapter. (Ord. 18831 §17; October 23, 2006).

#### **5.41.240 Unlawful Sale to Salvage Operation by Person Convicted of Theft.**

(a) It shall be unlawful for any individual who has been convicted of any theft offense within the last five years under the provisions of the Nebraska Revised Statutes or the Lincoln Municipal Code to donate, give, sale, trade, or pawn any high value salvage material to a salvage operation, recycling processing center or high value salvage collector permitted under this chapter within the City of Lincoln. Convictions for the following Nebraska State Statute and Lincoln Municipal Code violations shall constitute theft offenses for the purposes of this ordinance: Violations of *Neb. Rev. Stat.* §28- 507, Burglary; *Neb. Rev. Stat.* § 28-511, Theft by unlawful taking; *Neb. Rev. Stat.* § 28-511.01, Theft by shoplifting; *Neb. Rev. Stat.* § 28-511.02, Theft of rented or leased motor vehicle; *Neb. Rev. Stat.* § 28-512, Theft by deception; *Neb. Rev. Stat.* § 28-513, Theft by Extortion; *Neb. Rev. Stat.* § 28-514, Theft of property lost, mislaid, or delivered by mistake; *Neb. Rev. Stat.* § 28-515, Theft of services; *Neb. Rev. Stat.* § 28-517, Theft by receiving stolen property; Lincoln Municipal Code § 9.24.120, Receiving stolen property; Lincoln Municipal Code § 9.24.130, Taking possession of property without consent of owner; Lincoln Municipal Code § 9.24.140, Larceny; Lincoln Municipal Code § 9.24.150, Shoplifting; and Lincoln Municipal Code § 9.24.160, Theft of services. (Ord. 18831 §17; October 24, 2006).

#### **5.41.250 Penalty.**

(a) Any person upon whom a duty is placed by the provisions of this chapter who shall fail or neglect or refuse to perform such duty, or who shall violate any of the provisions of this chapter where a penalty is not otherwise specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period of not to

exceed six months or by a fine of not less than \$150.00 nor more than \$500.00, recoverable with costs, or both such fine and imprisonment.

(b) Each day that a violation continues shall constitute a separate and distinct offense and shall be punishable as such.

(c) The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of the permit provided for by this chapter. (Ord. 18831 §19; October 23, 2006; P.C. §5.41.200, Ord. 16602 §20; May 2, 1994).

**5.41.260 Periodic Reports.**

On January 1, 2008 the Chief of Police shall provide a report to the Mayor and City Council evaluating the effectiveness of the permit and reporting program for high value salvage materials and making recommendations for any changes necessary to improve the program, and thereafter, upon request of the Mayor or City Council, the Chief of Police shall provide such reports. (Ord. 18831 §20; October 23, 2006).

**5.41.270 Grace Period.**

This ordinance shall not go into effect until December 1, 2006 with the exception of Section 5.41.220(b). In order to allow time for high value salvage collectors to apply for a permit, Section 5.41.220(b) shall not go into effect until February 1, 2007. (Ord. 18831 §21; October 23, 2006).