

ORDINANCE NO. B-532

AN ORDINANCE REQUIRING THE REGISTRATION AND LICENSURE OF SCRAP METAL DEALERS IN THE CITY OF VICTORIA, KANSAS; ESTABLISHING AN APPLICATION PROCESS AND REGISTRATION FEE; AND, PROVIDING FOR THE SUSPENSION OR REVOCATION OF THE REGISTRATION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF VICTORIA, KANSAS:

SECTION 1. SCRAP METAL DEALERS; REGISTRATION REQUIRED.

On and after the effective date of this ordinance, it shall be unlawful for any business to purchase any regulated scrap metal without having first registered each place of business with the city as herein provided.

SECTION 2. SAME; DEFINITIONS. The words and phrases listed below when used in this ordinance shall have the following:

- (a) Scrap metal dealer means any person that operates a business out of a fixed location, and that is also either:
- (1) Engaged in the business of buying and dealing in regulated scrap metal;
 - (2) Purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or
 - (3) Operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.
- (b) Regulated scrap metal yard means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.
- (c) Regulated scrap metal shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2010 Supp. 50-6, 110 and 50-6, 111, and amendments thereto, was primarily

based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.

- (d) Bales of regulated metal means regulated scrap metal properly processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.
- (e) Ferrous metal means a metal that contains iron or steel.
- (f) Junk vehicle means a vehicle not requiring a title as provided in Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.
- (g) Nonferrous metal means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.
- (h) Tin means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.
- (i) Vehicle part means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

SECTION 3. SAME; REGISTRATION; APPLICATION; FEES; PENALTY.

(a) Application for registration for scrap metal dealer shall be verified and made upon a form furnished by the city and approved by the attorney general and shall contain:

- (1) The name and residence of the applicant;
- (2) The length of time that the applicant has resided within the State of Kansas and a list

- of all residences outside the State of Kansas during the previous 10 years;
- (3) The particular place of business for which a registration is desired.
 - (4) The name of the owner of the premises upon which the place of business is located; and,
 - (5) The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or Section 87 of Chapter 136 of the 2010 Session Laws of Kansas, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or Section 88 of Chapter 136 of the 2010 Session Laws of Kansas, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or Section 89 of Chapter 136 of the 2010 Session Laws of Kansas, or any other crime involving possession of stolen property.
 - (6) In addition to the information required in Subsection (a)(5), above, the applicant shall also disclose any prior convictions within 10 years immediately preceding the date of making the application for registration for any federal or local crime or offense similar to those stated in Subsection (a)(5), to include, but not be limited to, Sections 6.1, theft, 6.3, theft of lost or mislaid property, and 6.5, criminal deprivation of property, and amendments thereto, of the Uniform Public Offense Code for Kansas Cities.
- (b) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of \$ 250.00 (not less than \$100 nor more than \$400).
 - (c) The City Clerk shall provide the Chief of Police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

SECTION 4. SAME; ISSUANCE OF REGISTRATION; RENEWAL; RENEWAL FEES.

- (a) Upon receipt of the application for registration, the application fee and verifying the information contained in the registration application that the applicant is qualified, the City Clerk shall forward the application to the governing body, or its designee. The governing body, or its designee, shall accept a registration for a scrap metal dealer as otherwise provided for therein, from any scrap metal dealer engaged in business in the city and qualified to file such registration, to purchase regulated scrap metals.
- (b) Registrations issued hereunder, unless revoked as herein provided, shall be effective for a period of 10 years.
- (c) If an original registration is accepted, the governing body, or its designee, shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal, which shall be in addition to the fee provided by Section 3, shall be \$ 50.00 (not less than \$25 nor more than \$50).
- (d) No registration or renewal issued hereunder shall be transferable.

SECTION 5. SAME; PENALTY. Violation of Section 1 is a Class A violation and punishable by a fine of not more than \$2,500 or imprisonment in jail for not more than 12 months or by both such fine and imprisonment.

SECTION 6. SAME; EXCEPTION. This ordinance shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

SECTION 7. SAME; ISSUANCE; DISQUALIFICATION.

- (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body, or its designee, shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.
- (b) No scrap metal registration shall be accepted for:

- (1) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this ordinance.
- (2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of Article 37 of Chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or Section 87 through 125 and Subsection (a)(6) of Section 223 of Chapter 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805, prior to its repeal, or Section 128 of Chapter 136 of the 2010 Session Laws of Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, Section 129 of Chapter 136 of the 2010 Session Laws of Kansas, interference with judicial process, Section 130 of Chapter 136 of the 2010 Session Laws of Kansas, or any crime involving moral turpitude.
- (3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of Section 1, and amendments thereto, K.S.A. 50-6, 109 et. seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase or regulated scrap metal three or more times.
- (4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an

- employee whose conduct led to or contributed to the revocation of such registration.
- (5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years.
 - (6) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.
 - (7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.
 - (8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.
 - (9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this ordinance.

SECTION 8. SAME; SUSPENSION OR REVOCATION OF REGISTRATION.

(a) The governing body, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

- (1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6, 109 et. seq., and amendments thereto, or any similar ordinance or code provisions adopted by the city;
- (2) The employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 50-6, 109 et. seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city ordinance, or regulation controlling scrap

- metal sale or purchase in Kansas or any other state; or
- (3) Permitting any criminal activity under the Kansas criminal code, or similar ordinance adopted by the city in or upon the registrant's place of business.
- (b) The governing body may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times with a 24 month period.
- (c) The governing body, upon five days' notice to the person hold the registration, shall revoke or suspend the registration for any one of the following reasons;
 - (1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;
 - (2) The registrant has become ineligible to obtain a registration under this ordinance;
 - (3) The non-payment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or
 - (4) Within 20 days after the order of the governing body denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or suspension of a registration until final disposition or any action brought under this ordinance.
- (d) Any action brought under Subsections (a), (b) or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

SECTION 9. PUBLICATION; EFFECTIVE DATE: This ordinance shall be published one time in the official city newspaper, Russell County News, and shall take effect and be in force from and after said publication.

Passed by the City Council this 17th day of December, 2012, and signed by the mayor on the 17th day of December, 2012.

Curtis B. Unrein, Mayor
Curtis B. Unrein, Mayor

ATTEST:

Mary Pfeifer
Mary Pfeifer, City Clerk

(Seal)