

ORDINANCE NO. 8691

AN ORDINANCE ADOPTING SCRAP METAL DEALER REGISTRATION REQUIREMENTS WITHIN THE CORPORATE LIMITS OF THE CITY OF LAWRENCE, KANSAS; BY ENACTING CHAPTER 6, ARTICLE 18 OF THE CODE OF THE CITY OF LAWRENCE, KANSAS 2011 EDITION AND AMENDMENTS THERETO.

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

Section 1. Chapter 6, Article 18, of the Code of the City of Lawrence, Kansas 2011 edition and amendments thereto, is hereby enacted to read as follows:

6-1801 SCRAP METAL DEALER REGISTRATION: DEFINITIONS.

As used in this Article of this Code, the following words and terms shall have the meanings ascribed to them in this Section:

- (A) **BALES OF REGULATED METAL:** regulated scrap metal property 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.
- (B) **REGULATED SCRAP METAL:** wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters, for which the purchase price is primarily based upon 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. Regulated scrap metal does not include food or beverage containers made of aluminum.
- (C) **REGULATED SCRAP METAL YARD:** 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.
- (D) **SCRAP METAL DEALER:** 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.
- (E) **FERROUS METAL:** a metal that contains iron or steel.
- (F) **JUNK VEHICLE:** 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:** 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:** a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.
- (I) **VEHICLE PART:** 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.

6-1802 **SCRAP METAL DEALER REGISTRATION: REGISTRATION REQUIRED.**

- (A) No person in this City shall purchase any regulated scrap metal without having first registered as a scrap metal dealer as herein provided.
- (B) Violation of subsection (A) is a class A nonperson misdemeanor.
- (C) The City shall provide the Chief of Police written notice of each scrap metal dealer registration within 10 (ten) days of registration or renewal.
- (D) All applications for registration as a scrap metal dealer shall be verified upon a form approved by the attorney general, and shall contain the following information:
 - (1) the name and residential address 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 address of 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) any prior convictions within 10 years immediately preceding the date of making the application, for any of the following offenses:
 - a. theft;
 - b. theft of lost or mislaid property;
 - c. theft of services;
 - d. criminal deprivation of property;
 - e. or any other crime involving possession of stolen property.
- (E) Each application for registration as a scrap metal dealer shall be accompanied by a registration fee of \$400.

- (F) The City Commission shall accept a registration for a scrap metal dealer from any applicant qualified as provided for herein and authorized by City zoning regulations to do business in the City. Such registration shall be issued for a period of 10 (ten) years.
- (G) If an original registration is accepted, the City shall grant and issue renewals every ten (10) years upon application of the registration holder in accordance with this Article and upon payment of the application fee of \$400 plus the renewal fee of \$50, provided that: the registration holder remains qualified to receive the same; the registration has not been revoked as provided by law; and the registration holder pays the application and renewal fees as established by ordinance, resolution, or as otherwise permitted.
- (H) No registration issued under this Article shall be transferable.
- (I) This Article shall not apply to vehicle dealers licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such vehicle dealer buys or recycles regulated scrap metal that is not motor vehicle components

6-1803 **QUALIFICATIONS.**

- (A) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meet the statutory requirements for such registration, the governing body of the 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 Article and such crime was committed during the time that such parents or legal guardians held a similar registration under the laws of this state or any political subdivision.
 - (2) A person who, within five years immediately preceding the date of application, 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 any of the following offenses:
 - a. Any crime listed in Chapter 14 of the Code of the City of Lawrence, Kansas – “Public Offenses”.
 - b. perjury;
 - c. compounding a crime;
 - d. obstructing legal process or official duty;
 - e. falsely reporting a crime;
 - f. interference with law enforcement;
 - g. interference with judicial process; or
 - h. any crime involving moral turpitude.

- (3) A person who, within the five years immediately preceding the date of application, has three or more times either pled guilty to, been found guilty of, or entered into a diversion agreement for violating the laws of any city, county, or state that regulates the sale or purchase of regulated scrap metal.
 - (4) A person who, within the three years immediately preceding the date of application, 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 for 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 registration 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 Article and such crime was committed during the time that the spouse held a registration under this Article, or a similar registration of another city, county or state.
- (B) Each applicant shall provide to the City a criminal history record check from the Kansas Bureau of Investigation, dated no more than thirty (30) days prior to the date of application, for each individual applicant, owner, manager, partner, shareholder, officer, director, or agent, as the case may be, who is required to qualify for registration hereunder. The applicant shall be solely responsible for any costs associated with obtaining said record check(s). This requirement shall apply to both new and renewal applications for registration as a scrap metal dealer.

6-1804 SUSPENSION OR REVOCATION OF REGISTRATION.

- (A) The City, upon five days' notice to the person holding a scrap metal dealer's registration, may suspend such 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 Chapter 14 of the Code of the City of Lawrence, K.S.A. 50-6,109 et seq., and amendments thereto; or the laws of any other city, county, or state comparable to such provisions;
 - (2) Employing, or continuing to employ, a person who has within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of Section 6-1805; K.S.A. 50-6,109 et seq., and amendments thereto; or the laws of any other city, county, or state comparable to such provisions, and the registered scrap metal dealer has reason to know of such conviction; or
 - (3) Permitting any criminal activity in or upon the registrant's place of business.
- (B) The City may revoke the registration of a scrap metal dealer who has had its registration suspended two or more times within a 24-month period.
- (C) The City, upon five days' notice to the person holding 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 Article;
 - (3) The nonpayment of any registration fees, including renewal fees, after receiving written notice that such registration fees are more than 30 days past due; or
 - (4) A violation 6-1804 (F).
- (D) Within 20 days after notice from the City denying, revoking or suspending any registration, the registrant may appeal to the district court as provided by law 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 of any action brought under this act.
- (E) Any action taken 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.
- (F) No person in this City shall purchase any regulated scrap metal while their City scrap metal dealer registration is suspended or revoked as provided herein.

6-1805 SCRAP METAL SALES.

- (A) Scrap Metal Sales; Requirements:

- (1) It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this City unless such person presents to such scrap metal dealer or employee or agent of a dealer, at or before the time of sale, the following information:
 - a. the seller's name, address, sex, and date of birth; and
 - b. the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

- (2) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented pursuant to subsection (1) above, accurately and legibly record at the time of sale the following information:
 - a. the time, date and place of transaction;
 - b. the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license (but if the identifying number is from an official governmental document from a country other than the United States, the dealer or agent must also obtain a fingerprint from the seller);
 - c. a copy of the identification card or document containing such identifying number;
 - d. the license number including state of issuance, color, make and model of any motor vehicle in or on which the regulated scrap metal property is transported or delivered for the purchase transaction;
 - e. a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;
 - f. the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;
 - g. if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;
 - h. the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and
 - i. the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.

- (3) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.
- (4) Notwithstanding the foregoing, this subsection (A) shall not apply to:
 - a. transactions involving regulated scrap metal (except for catalytic converters) for which the total sale price for all regulated scrap metal is \$50.00 or less;
 - b. transactions involving only catalytic converters for which the total sale price is \$30.00 or less;
 - c. transactions in which the seller is also a scrap metal dealer; or
 - d. transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.
- (5) The exceptions contained in subsections (4)(a) and (4)(b) shall not apply to any purchase from any seller of the following materials:
 - a. catalytic converters purchased separate from a vehicle;
 - b. coated or insulated wire or stripped wire or burnt wire;
 - c. refrigeration condensing units or air conditioning coils of any type; or copper tubing, bars, plate, buss bar and sheet copper.
- (6) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (5)(a) through (d) by any means other than:
 - a. a prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (A)(2); or
 - b. a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (A)(2).

(B) Scrap Metal Dealers; Requirements:

- (1) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 6-1805 (A) requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in Section 6-1805 (A). All records kept in accordance with the provisions of this Section shall be open at all times to law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to law enforcement officers upon request.

- (2) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which Section 6-1805 (A) requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.
- (3) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which Section 6-1805 (A) requires information to be presented by the seller, without: (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.
- (4) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a person under 18 years of age, unless such underage person is accompanied by his or her parent or legal guardian.
- (5) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, or civic organization to which the property purportedly belongs; or is a scrap metal dealer:
 - a. Utility access cover;
 - b. street light poles or fixtures;
 - c. road or bridge guard rails;
 - d. highway or street sign;
 - e. water meter cover;
 - f. traffic directional or traffic control signs;
 - g. traffic light signals;
 - h. any metal marked with any form of the name or initials of a governmental entity;
 - i. property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;
 - j. property owned and marked by a railroad;
 - k. funeral markers or vases;
 - l. historical markers;
 - m. bales of regulated metal;
 - n. beer kegs;
 - o. manhole covers;
 - p. fire hydrants or fire hydrant caps;

- q. junk vehicles with missing or altered vehicle identification numbers;
 - r. real estate signs;
 - s. bleachers or risers, in whole or in part; and
 - t. twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge.
- (6) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for a minimum of 30 days, exclusive of weekends and holidays.

Section 2. Penalty.

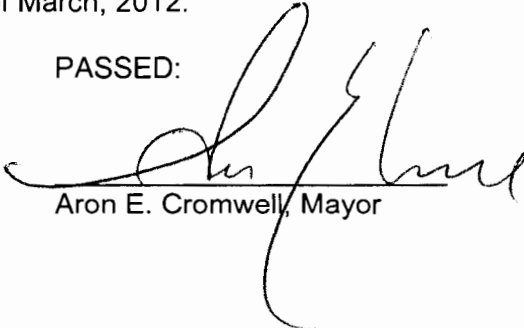
Violation of any provision of this Article shall be punished by a fine not to exceed \$2500 or a jail term not to exceed one year, or both such fine and jail term.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

Section 4. Effective Date. This ordinance shall take effect and be in force upon its passage and publication once in the official city paper as provided by law.

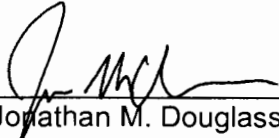
ADOPTED by the Governing Body this 6th day of March, 2012.

PASSED:



Aron E. Cromwell, Mayor

ATTEST:



Jonathan M. Douglass, City Clerk

APPROVED AS TO LEGAL FORM:



Toni Wheeler, City Attorney