

(Published in the Topeka Metro News February 20, 2012)

ORDINANCE NO. 19701

AN ORDINANCE introduced by Interim City Manager, Daniel R. Stanley, concerning the regulation and registration of scrap metal dealers in the City of Topeka, creating City of Topeka Code § 5.10.300 and new Chapter 5.170.

BE IT ORDAINED BY THE GOVERNING BODY THE CITY OF TOPEKA:

Section 1. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.10.300, which said section reads as follows:

Regulated scrap metal dealer.

(a) The initial registration fee for a regulated scrap metal dealer shall be \$400.

(b) The renewal fee shall be the fee prescribed in section (a) plus an additional fee of \$40.

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding Chapter 5.170, REGULATED SCRAP METAL DEALERS.

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.170.010, which said section reads as follows:

Definitions.

(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

29 (3) operating, carrying on, conducting or maintaining a regulated scrap
30 metal yard or place where regulated scrap metal is gathered together and stored
31 or kept for shipment, sale or transfer.

32 (b) “Regulated scrap metal” means wire, cable, bars, ingots, wire scraps,
33 pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors
34 made from aluminum; catalytic converters containing platinum, palladium or rhodium;
35 and copper, titanium, tungsten, stainless steel and nickel in any form; for which the
36 purchase price was primarily based on the content therein of aluminum, copper,
37 titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item
38 composed in whole or in part of any nonferrous metal other than an item composed of
39 tin, that is purchased or otherwise acquired for the purpose of recycling or storage for
40 later recycling. Aluminum shall not include food or beverage containers.

41 (c) “Regulated scrap metal yard” means any yard, plot, space, enclosure,
42 building or any other place where regulated scrap metal is collected, gathered together
43 and stored or kept for shipment, sale or transfer.

44 (d) “Junk vehicle” means a vehicle not requiring a title as provided in chapter
45 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming
46 implement, industrial equipment, trailer or any other conveyance used on the highways
47 and roadways, which has no use or resale value except as scrap.

48 (e) “Nonferrous metal” means a metal that does not contain iron or steel,
49 including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their
50 alloys.

51 (f) “Tin” means a metal consisting predominantly of light sheet metal ferrous
52 scrap, including large and small household appliances, construction siding and
53 construction roofing.

54 (g) “Vehicle part” means the front clip consisting of the two front fenders,
55 hood, grill and front bumper of an automobile assemble as one unit; or the rear clip
56 consisting of those body parts behind the rear edge of the back doors, including both
57 rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper,
58 assembled as one unit; or any other vehicle part.

59 Section 4. That The Code of the City of Topeka, Kansas, is hereby amended
60 by adding a section, to be numbered 5.170.020, which said section reads as follows:

61 **Registration.**

62 (a) No person or business entity shall purchase any regulated scrap metal
63 without having first registered each place of business located within the city.

64 (b) Each applicant for registration shall submit an application to the city clerk
65 and an application fee required by TMC 5.10.300. The application shall be verified and
66 upon a form approved by the attorney general. The application shall contain the
67 following information:

68 (1) Name and residence of the applicant;

69 (2) Length of time applicant has resided within the State of Kansas;

70 (3) The place of business;

71 (4) Name of the owner of the premises; and

72 (5) Prior convictions for property crimes within ten years immediately
73 preceding the date of application.

74 (c) Each registrant shall display or post the registration in the business office of
75 the premises.

76 (d) Notwithstanding subsection (a), registration is not required for a business
77 licensed pursuant to K.S.A. 8-2404, and amendments thereto, unless such business
78 purchases or recycles regulated scrap metal that are not motor vehicle components.

79 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
80 by adding a section, to be numbered 5.170.030, which said section reads as follows:

81 **Term of initial registration; renewal.**

82 (a) Each registration shall be for a term of ten years from the date the
83 registration is approved by the governing body. Registrations shall not be transferable.

84 (b) Upon application by the registration holder and submission of a renewal
85 fee prescribed by TMC 5.10.300, the governing body may renew the registration for an
86 additional ten year period if the registration holder is otherwise qualified for registration
87 and the registration holder's previous registration was not revoked.

88 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
89 by adding a section, to be numbered 5.170.040, which said section reads as follows:

90 **Disqualifiers.**

91 After examining the application and determining that the applicant meets the
92 statutory requirements to be registered, the governing body shall direct the city clerk to
93 issue a registration. However, a registration shall be denied for any of the following
94 reasons:

95 (a) The applicant is under 18 years of age and his or her parents or legal
96 guardians have been convicted of a felony or other crime which would disqualify a

97 person from registration and such crime was committed during the time that such
98 parents or legal guardian held a registration under this chapter.

99 (b) The applicant, within five years immediately preceding the date of
100 application, has pled guilty to, been convicted of, released from incarceration for or
101 released from probation or parole for committing, attempting to commit, or conspiring to
102 commit a violation of any of the following crimes:

103 (1) property crime;

104 (2) perjury;

105 (3) compounding a crime;

106 (4) obstructing legal process or official duty;

107 (5) falsely reporting a crime;

108 (6) interference with law enforcement;

109 (7) interference with judicial process; or

110 (8) any crime involving moral turpitude.

111 (c) The applicant, within the five years immediately preceding the date of
112 application, has pled guilty to, been found guilty of, or entered a diversion agreement for
113 violating the scrap metal dealers' laws, including K.S.A. 50-6,109 et seq., and
114 amendments thereto, the laws of another state comparable to such provisions or laws of
115 any county or city regulating the sale or purchase of regulated scrap metal three or
116 more times.

117 (d) The applicant, within the three years immediately preceding the date of
118 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.

(e) The applicant made a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within three years immediately preceding the date of application.

(f) The applicant is a partnership or limited liability company and one or more members is not otherwise qualified for registration.

(g) The applicant is a corporation and its manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, is ineligible to receive a registration for any reason.

(h) The applicant's place of business is conducted by a manager or agent who would be ineligible to receive a registration.

(i) The applicant's spouse has been convicted of a felony or other crime which would disqualify the spouse from registration and such crime was committed during the time that the spouse was registered under this chapter.

Section 7. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.170.050, which said section reads as follows:

Suspension not to exceed 30 days.

The governing body, upon five days notice to the registrant, may suspend the registration of a particular site for up to 30 days for any of the following reasons:

(a) 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 county resolution;

(b) 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 date of notice of a 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 ordinance or county resolution in Kansas or in another state controlling scrap metal sale or purchase; or

(c) Permitting any criminal activity under the Kansas criminal code, or similar ordinance, in or upon the registrant's place of business.

Section 8. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.170.060, which said section reads as follows:

Suspension or revocation.

(a) The governing body may revoke the registration for a particular site where the registration for that site has been suspended three or more times within a 24-month period.

(b) The governing body, upon five days notice to the registrant, shall revoke or suspend the registration for a particular site for either of the following reasons:

(1) The registrant has fraudulently registered by knowingly providing materially false information on the registration application.

(2) The registrant has become ineligible to obtain a registration under this chapter.

Section 9. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 5.170.070, which said section reads as follows:

Hearing before Governing Body; Appeal.

165 (a) Upon receipt from the city clerk of a notice of intent to deny an application or
166 revoke or suspend a registration, a person may request a hearing before the governing
167 body if both of the following conditions are met:

168 (1) the person requests, in writing, a hearing; and

169 (2) the request is submitted, in writing, to the city clerk within 7 days of receipt of
170 the notice of intent. If the request is not timely submitted, the action in subsection (a)
171 shall become effective. If the request is timely submitted, the matter will be scheduled
172 for consideration by the governing body.

173 (b) An applicant, within 20 days of a denial of a registration application by the
174 governing body, may appeal to the district court pursuant to L. 2011, chapter 86,
175 §3(c)(4).

176 (c) A registrant may appeal the revocation or suspension of a registration to
177 the district court within 20 days from the date of suspension or revocation by the
178 governing body pursuant to L. 2011, chapter 86, §3(c)(4).

179 Section 10. This ordinance shall take effect and be in force from and after its
180 passage, approval and publication in the official City newspaper.

181 Section 11. This ordinance shall supersede all ordinances, resolutions or rules,
182 or portions thereof, which are in conflict with the provisions of this ordinance.

183 Section 12. Should any section, clause or phrase of this ordinance be declared
184 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
185 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

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PASSED AND APPROVED by the City Council February 14, 2012.

CITY OF TOPEKA, KANSAS

William W. Buntten, Mayor

ATTEST:

Brenda Younger, City Clerk