

(Published in the Topeka Metro News October 23, 2017)

**ORDINANCE NO. 20091**

AN ORDINANCE introduced by Interim City Manager, Douglas Gerber, repealing Chapter 5.170 of the Topeka Municipal Code concerning the regulation of scrap metal dealers.

WHEREAS, a 2015 state law put registration of scrap metal dealers within the purview of the Attorney General pursuant to K.S.A 50-6,109f and K.S.A. 50-6,112a and prohibits cities from enforcing ordinances related to scrap metal.

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

Section 1. That section 5.10.300, Regulated scrap metal dealer, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~Regulated scrap metal dealer.~~**

~~(a) The initial registration fee for a regulated scrap metal dealer shall be \$400.00.~~

~~(b) The renewal fee shall be \$50.00.~~

Section 2. That section 5.170.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~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~~

~~(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” means 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 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.~~

(c) ~~“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.~~

(d) ~~“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.~~

(e) ~~“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.~~

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

(g) ~~“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. That section 5.170.020, Registration, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~Registration.~~**

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

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

~~(1) Name and residence of the applicant;~~

~~(2) Length of time applicant has resided within the state of Kansas;~~

~~(3) The place of business;~~

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

~~(5) Prior convictions for property crimes within 10 years immediately preceding the date of application.~~

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

~~(d) Notwithstanding subsection (a) of this section, registration is not required for a business licensed pursuant to K.S.A. [8-2404](#), and amendments thereto, unless such business purchases or recycles regulated scrap metal that is not motor vehicle components.~~

77           Section 4.   That section 5.170.030, Tem of initial registration – Renewal, of  
78   The Code of the City of Topeka, Kansas, is hereby repealed.

79           ~~**Term of initial registration – Renewal.**~~

80           ~~(a) Each registration shall be for a term of 10 years from the date the registration~~  
81   ~~is approved by the governing body. Registrations shall not be transferable.~~

82           ~~(b) Upon application by the registration holder and submission of a renewal fee~~  
83   ~~prescribed by TMC [5.10.300](#), the governing body may renew the registration for an~~  
84   ~~additional 10-year period if the registration holder is otherwise qualified for registration~~  
85   ~~and the registration holder's previous registration was not revoked.~~

86           Section 5.   That section 5.170.040, Disqualifiers, of The Code of the City of  
87   Topeka, Kansas, is hereby repealed.

88           ~~**Disqualifiers.**~~

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

93           ~~(a) The applicant is under 18 years of age and his or her parents or legal~~  
94   ~~guardians have been convicted of a felony or other crime which would disqualify a~~  
95   ~~person from registration and such crime was committed during the time that such~~  
96   ~~parents or legal guardian held a registration under this chapter.~~

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

- ~~(1) Property crime;~~  
~~(2) Perjury;~~  
~~(3) Compounding a crime;~~  
~~(4) Obstructing legal process or official duty;~~  
~~(5) Falsely reporting a crime;~~  
~~(6) Interference with law enforcement;~~  
~~(7) Interference with judicial process; or~~  
~~(8) Any crime involving moral turpitude.~~

~~(c) The applicant, within the five years immediately preceding the date of application, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the scrap metal dealers' laws, including 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 of regulated scrap metal three or more times.~~

~~(d) The applicant, 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.~~

~~(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 percent 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 6. That section 5.170.050, Suspension not to exceed 30 days, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~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 7. That section 5.170.060, Suspension or revocation, of The Code of the City of Topeka, Kansas, is hereby repealed.

**~~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 8. That section 5.170.070, hearing before governing body - Appeal, of The Code of the City of Topeka, Kansas, is hereby repealed.

~~**Hearing before governing body – Appeal.**~~

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

~~(1) The person requests, in writing, a hearing; and~~

~~(2) The request is submitted, in writing, to the city clerk within seven days of receipt of the notice of intent. If the request is not timely submitted, the action in subsection (a) of this section shall become effective. If the request is timely submitted, the matter will be scheduled for consideration by the governing body.~~

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

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

Section 9. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 10. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 11. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on October 17, 2017.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk