

Chapter 5.53
SCRAP METAL

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5.53.010 Definitions.

Words, terms and phrases used herein shall have the same meaning as those words, terms or phrases set out in K.S.A. 2010 Supp. 50-6,109, and amendments thereto.

(History: Ord. SM-2931 §1, 2011)

5.53.020 Registration Required.

- A. On or after January 1, 2012, no business in this City shall purchase any regulated scrap metal without having first registered each place of business as herein provided. Violations of this provision shall be prosecuted as set out in Section 11.12.230.
- B. Applications for registration will be on forms provided by the City Clerk. Applications shall be verified, 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 K.S.A. 2011 Supp. 21-5801, and amendments thereto; theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2011 Supp. 21-5802, and amendments thereto; 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 K.S.A. 2011 Supp. 21-5803, and amendments thereto; or any other crime involving possession of stolen property.
- C. The City Clerk shall provide the Sheriff and Chief of Police written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.
- D. Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of \$400.00.
- E. The City Clerk shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in the City and qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years.

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- F. The City Clerk shall grant and issue renewals or registration 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 subsection (D), shall be \$50.00.
- G. No registration issued under this Chapter shall be transferable.
- H. This Section 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.

(History: Ord. SM-2931 §1, 2011)

5.52.030 Qualifications.

No scrap metal registration shall be accepted for:

- A. 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 Chapter.
- B. 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 K.S.A. 2011 Supp. 21-5801 through 21-5839, and amendments thereto; cruelty to animals under subsection (a)(6) of K.S.A. 2011 Supp. 21-6412, and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2011 Supp. 21-5903, and amendments thereto; 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, K.S.A. 2011 Supp. 21-5904, and amendments thereto, interference with judicial process, K.S.A. 2011 Supp. 21-5905, and amendments thereto, or any crime involving moral turpitude.
- C. 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 11.12.210, 11.12.220, 11.12.230 or 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. 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.
- E. 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.
- F. A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.

- G. 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.
- H. 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.
- I. 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 Chapter.

(History: Ord. SM-2931 §1, 2011)

5.53.040 Suspension or Revocation of Registration.

- A. The City Clerk, 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 Section 11.12.210, 11.12.220, 11.12.230 or K.S.A. 50-6,109 *et seq.*, and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the City, as the case may be;
 - 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 Section 11.12.210, 11.12.220, 11.12.230 or K.S.A. 50-6,109 *et seq.*, and amendments thereto, or the laws of another state comparable to such provisions, or any City or county ordinance or resolution, 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 a similar ordinance, or rules or regulations made by the City, in or upon the registrant's place of business.
- B. The City Clerk may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.
- C. The City Clerk, 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 Chapter; or
 - 3. the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due.
- D. Within 20 days after the order of the City Clerk 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 of any action brought under this Chapter.

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- E. 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.

(History: Ord. SM-2931 §1, 2011)

5.53.050 Severability.

Should any court declare any section, clause or provision of this Chapter to be unconstitutional or invalid, such decision shall affect only such section, clause or provision so declared unconstitutional or invalid and shall not affect any other section, clause or provision.

(History: Ord. SM-2931 §1, 2011)

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