

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 080612, AS AMENDED

Amending Chapter 54, Code of Ordinances, by adding a new Article V, Secondary Metal Recyclers.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 54, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding a new Article V, Secondary Metal Recyclers, to read as follows:

**ARTICLE V. SECONDARY METAL RECYCLERS.**

**Sec. 54-201. Purpose.**

The purpose of this article is to provide for appropriate and reasonable regulation of secondary metal recyclers in light of the potential detrimental effects of improper operation, such as the potential for purchasing property that has been stolen.

**Sec. 54-202. Definitions.**

As used herein, the following words shall have the definitions as provided:

*Bales of recycled metal.* Regulated metal property processed with professional recycling equipment by compression, shearing, or shredding, to a form in which it may be sold by a secondary metal recycler consistent with industry standards.

*Designated Agent.* The individual designated by the permit holder who is in actual management and control of the business permitted under this article.

*Director.* Director shall mean the director of Neighborhood and Community Services Department or his designee.

*Ferrous metal.* A metal that contains iron or steel.

*Junk vehicle.* A motor vehicle, aircraft, boat, farming implement, industrial equipment, trailer or any other convenience used on the highways and roadways, which has no use or resale value except as scrap.

*Nonferrous metal.* A metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, platinum, bronze, lead, zinc, nickel, and their alloys.

*Person.* Any individual, estate, firm, corporation, association, partnership, limited liability company, cooperative or governmental agency.

*Regulated Metal Property.* Any item listed in section 54-213, vehicle, junk vehicle, vehicle part and any item composed in whole or in part of any nonferrous metal, other than aluminum cans, as defined herein, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling.

*Secondary metal recycler.* Any person who:

- (1) Is engaged in the business of purchasing, collecting, or soliciting regulated metal property for the purpose of recycling; or
- (2) Operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer, or recycling.

*Secondary metal recycling permit.* A document, approved by the director, issued to a person who has applied for and met the requirements to operate as a secondary metal recycler as defined in this article.

*Secondary metal recycling yard.* Any real property where regulated metal property is purchased or kept for shipment, sale, transfer or recycling.

*Vehicle Part.* Either the front clip consisting of the two front quarter panels, 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.

**Sec. 54-203. Permit required.**

Within 60 days of the effective date of this ordinance, it shall be unlawful for any person:

- (1) To operate or maintain a secondary metal recycling yard in the city unless the owner, operator or lessee thereof has applied for and obtained a secondary metal recycling permit from the city; or
- (2) To operate such business after such permit has expired or has been revoked or suspended by the city.

A permit shall be required for each location at which a secondary metal recycling yard operates in the city. This permit shall be in addition to any other permit or license required by other local, state or federal government agencies. No permit shall be issued for any business seeking to operate at a location prohibited by any applicable local, state or federal law, statute, ordinance, rule or regulation; provided, however, that a business lawfully in existence on the date of adoption of such prohibition may be issued a permit if allowed by such provisions. Prior to issuance of the secondary metal recycling permit, the director shall request other city departments to inspect the business premises to ensure compliance with other city ordinances.

#### **Sec. 54-204. Administrative Penalty.**

It shall be a violation of this code to fail to make application for a secondary metal recycling permit or renewal of a secondary metal recycling permit, to fail or refuse, upon proper request, to provide full and correct information specified in this article and to be in violation of any provision of this article or the rules and regulations adopted hereunder. The application or renewal requirements shall not preclude the city from taking any appropriate actions; or to issue notices of violation or notices to abate; or from acting upon imminent hazard(s). Penalties for violation of this article shall be imposed as administrative citation fines according to the following schedule:

##### Delinquent Period Fine

30 days \$50.00

60 days \$100.00

90 days \$150.00

120 days \$200.00

150 days \$250.00

180 days \$300.00

210 days \$350.00  
240 days \$400.00  
270 days \$450.00  
300 or more days \$500.00

**Sec. 54-205. Display of permit.**

The secondary metal recycling permit issued pursuant to this article must be displayed in a conspicuous place open to public view in the secondary metal recyclers place of business.

**Sec. 54-206. Permit form and duration.**

Each secondary metal recycling permit issued under this article shall state the name of the permit holder, the designated agent, the place of business, the street address where the business is located, and the hours and days the secondary metal recycling permit holder is authorized to transact business. The secondary metal recycling permit shall be valid for a period of one year (or the remaining portion of the year for the initial permit) beginning on December 1 through November 30. The permit shall be renewed annually.

**Sec. 54-207. Application for permit.**

Application for a secondary metal recycling permit or annual renewal shall be made in writing to the director and shall contain the following information:

- (1) The full name and place of business of the applicant. If the applicant is a Limited Liability Company, the name of the managing member, if one is designated in the Limited Liability Company documents, shall be provided. If the applicant is a partnership, the full name and place of residence/business of each general partner shall be listed. If the general partner of a partnership is a corporation, then that corporation shall list the full name, position and place of residence of each officer and director of that corporation. If the applicant is a corporation, the full name, position,

and place of residence of each officer and director shall be provided. If the applicant is doing business under a fictitious name, both legal and fictitious names shall be listed on the application; The street address and legal description where such business is to occur;

- (2) The maximum hours of operation and days of the week that the business will be open to the public;
- (3) The name, telephone number and address of the person designated as the Designated Agent of the local office operations. The Designated Agent will be the individual authorized to receive notifications (including notification of violations) that may be issued by the City;
- (4) The Missouri sales tax number, if required by the State of Missouri for the applicant to do business at the site that is the subject of the application, and federal identification number of the business;
- (5) Proof that the applicant has received a tax clearance from the finance department shall be attached to the application;
- (6) Such further information that pertains to the operation of a secondary metal recycling yard as may be required by the director.
- (7) The owner of the secondary metal recycling yard shall update the application or renewal in writing as changes occur.
- (8) The application shall be dated and signed by an individual with authority to sign on behalf of the person requesting the secondary metal recycling permit.
- (9) If the real estate for the secondary metal recycling yard is not owned by the applicant, the name, address and telephone number of the owner of the real estate. Documentation that establishes the real estate owner authorizes the use of the property as a secondary metal recycling yard shall be attached to the application.

**Sec. 54-208. Permit renewal.**

The renewal of the secondary metal recycling permit shall be made in writing and shall include the name of the permit holder and address of the premises. Permits shall expire on November 30 of each year and renewal applications for such permits shall be submitted between October 1 and November 1 of each year. Permits in good standing on the date of their expiration shall be eligible for renewal. In determining whether a renewal application shall be approved or disapproved, the director shall consider the following factors:

- (1) If a permit holder has not violated the requirements of this Article, and has maintained the records required under Section 54-212.
- (2) The frequency of disturbances or other incidents upon or in the immediate vicinity of the permitted premises by persons visiting the premises that have required police presence, response, investigation or other action.
- (3) Whether the secondary metal recycler has received prior notice of violations of this article which may not justify renewal.
- (4) Whether crimes or city ordinance violations have been committed upon or in the immediate vicinity of the permitted premises by persons visiting the premises or by the secondary metal recycler or his employees.

**Sec. 54-209. Suspension, revocation, refusal to issue or renew permit.**

The director may, upon conducting a hearing after ten days have expired from the date of written notice, suspend for a period not to exceed 30 days or revoke for a period not to exceed one year a secondary metal recycler's permit for any of the following reasons:

- (1) The making of any false statement in an application, renewal or hearing for a secondary metal recycling permit.

- (2) Failure to obtain a tax clearance from the finance department.
  
- (3) Violation of any city ordinance, state law or federal law related to regulated metal property, on the premises, by the secondary metal recycling permit holder or any employee of the permit holder that was not immediately reported to the police department and to the Regulated Industries Division.
  
- (4) The occurrence of criminal activity on the premises as described in section 54-208.

- (5) Failure to allow access to the permit holders premises, during business hours or anytime the business is open to the public, by authorized law enforcement and regulatory personnel.

**Sec. 54-210. Informal disposition of contested cases.**

Nothing contained in this article shall preclude the informal disposition of contested cases by stipulation, consent order or default, or by agreed settlement.

**Sec. 54-211. Inspections.**

(a) The director or his authorized agents, or any member of the police department, shall have the right, at any reasonable time, to inspect any area of the permitted premises including all portions of the buildings thereof and the permit holder shall allow inspection of all premises used in connection with the operations carried on under the permit. A secondary metal recycling permit holder or the designated agent or their representatives must make the premises available for inspection and shall accompany inspectors during inspections. The following are the different types of inspections that may be made:

- (1) *Routine.* The director, or his authorized agents, shall, during normal business hours, conduct periodic inspections of the entire secondary metal recycling yard and buildings and property thereof to ensure compliance with this article.
- (2) *Complaint.* The director, or his authorized agents, shall, during normal business hours, conduct inspections when violations of this article are reported to the director.
- (3) *Reinspection.* The director, or his authorized agents, shall, during normal business hours, inspect a secondary metal recycler who fails a routine or complaint inspection until compliance is reached. A fee will be charged for any second reinspection and every reinspection thereafter until compliance of the original complaint or routine inspection is met.

(b) The fee for each inspection shall be as follows:

Routine inspection	No Fee
Complaint inspection	No Fee
2 <sup>nd</sup> and every subsequent Reinspection	\$100

**Sec. 54-212. Records required.**

At the time of acquiring any regulated metal property within the city of Kansas City, Missouri, the secondary metal recycling permit holder is hereby required to:

(1) Obtain, for all vehicles, 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.

(2) Accurately and legibly record the following information:

- a. The time, date and place of transaction;
- b. The individuals name, address, photograph, sex, date of birth, and the identifying number from the sellers drivers license, military identification card, passport, or government issued personal identification card. The identifying number from an official governmental document that includes a photograph for a Country other than the United States may be used as an identifying number provided that a legible thumbprint is also obtained;
- c. The license number, color, and style or make of any motor vehicle that is used in delivering any regulated metal property;
- d. A full description, made in accordance with the custom of the trade, of the predominant types of acquired regulated metal property;
- e. The weight, quantity, or volume, made in accordance with the custom of the trade, of the acquired regulated metal property;
- f. A description of the junk vehicle, or vehicle part, including the make, model, color, vehicle identification number and/or serial number if applicable;
- g. The consideration given in a purchase transaction for the regulated metal property;

- h. The name of the individual acting on behalf of the secondary metal recycler in acquiring the regulated metal property.
  
- (3) Obtain a signed statement that the regulated metal property is his own personal property, is free of encumbrances and is not stolen, or that he is acting for the owner, the name and address of the owner, the regulated metal property is free of encumbrances, is not stolen and that he has permission to sell the item.
  
- (4) Make all payments which are five hundred dollars or more in the form of a check or any method in which a financial institution makes and retains a record of the transaction.
  
- (5) Sign a statement on the directors form verifying that the correct vehicle identification number is listed, if applicable.
  
- (6) The provisions of this section shall not apply for purchases from another secondary metal recycling permit holder, a salvage yard that has been issued a Permit as described in Article IV of this Article, or a Person that operates out of a fixed location in which the Person is the direct owner of the regulated metal property.
  
- (7) The provisions of this section shall not apply to any transaction for which the regulated metal property is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.

**Sec. 54-213. Restrictions on transactions.**

A secondary metal recycler shall not purchase, receive or keep any of the following items without obtaining proof that the seller is the verifiable owner or is an employee, agent, or person who is authorized in writing to sell the item on behalf of the owner:

- (1) Utility access covers,

- (2) Street light poles or fixtures,
- (3) Road or bridge guard rails,
- (4) Highway or street signs,
- (5) Water meter covers,
- (6) Traffic directional and traffic control signs,
- (7) Traffic light signals,
- (8) Any metal marked with any form of the name or initials of a governmental entity,
- (9) Property owned and marked by a telephone, cable, electric, water, or other utility provider,
- (10) Property owned and marked by a railroad,
- (11) Funeral markers and vases,
- (12) Historical markers,
- (13) Bales of regulated metal property,
- (14) Beer kegs,

(15) Real estate signs,

(16) Bleachers or risers

**Sec. 54-214. False information.**

It shall be unlawful for any person to knowingly provide false information for any of the records required by this article or to provide false information upon any application for a secondary metal recycling permit or application for renewal of a secondary metal recycling permit as provided in this article or to knowingly sign as true any statement required herein if the same is not true.

**Sec. 54-215. Records maintained.**

The records required by section 54-212 shall be maintained by the secondary metal recycling permit holder for twenty-four months and shall be open for inspection to authorized law enforcement, city regulatory personnel, and the director or for other official use at any time, but shall not be open for general public inspection.

**Sec. 54-216. Acts of employees.**

The holder of a secondary metal recycling permit and his designated agent shall be liable under this article for any and all violations by his employees of any provisions of this article during business hours or while on the premises of the secondary metal recycling yard.

**Sec. 54-217. Operation of secondary metal recycling yard.**

Every secondary metal recycling yard shall be located and operated in accordance with the following requirements:

- (1) Every secondary metal recycling yard must comply with the requirements of Chapter 26, Chapter 80, Chapter 48 and all other applicable city ordinances; and
- (2) All materials located in or on the land area devoted to the secondary metal recycling yard shall be arranged to allow reasonable access to and inspection of the premises by authorized law enforcement personnel, city regulatory personnel, city officials and the director.
- (3) It shall be unlawful for any permit holder to fail to notify the director within ten days of any change of control in ownership or in the designated agent of the business.

**Sec. 54-218. Violations.**

(a) It is a violation of this article for any person, secondary metal recycling permit holder, or designated agent of a secondary metal recycling yard to operate a secondary metal recycling yard in a manner prohibited by any requirement of this article.

(b) The legal title holder and the agent of the legal title holder of premises on which a secondary metal recycling yard is operated is in violation of this article if any violation of this article occurs on his premises and such violation continues to exist more than 30 days after the date of written notice of such violation has been mailed to him.

(c) Every day that a violation continues shall be considered a separate offense.

**Sec. 54-219. Penalty.**

(a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$200.00, but not more than \$500.00, or by imprisonment of up to 180 days, or by both such fine and imprisonment. All fines imposed shall be in accordance with the minimum fine schedule set out in subsection (b) herein.

(b) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be:

No less than a \$200.00 fine for the first conviction

No less than a \$400.00 fine for the second conviction

No less than a \$500.00 fine for the third and any subsequent conviction

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Approved as to form and legality:

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Kathy Adams

Assistant City Attorney