

ORDINANCE NO. 2014 - 04

AN ORDINANCE of the City of Sunnyside, Washington, Creating a New Chapter 5.60 "Scrap Metal Business License"; and Amending Chapter 5.24 "Pawnbrokers and Second-Hand Metal Dealers"



WHEREAS, the Washington legislature has amended regulations for scrap metal businesses within the State of Washington reserving to the cities authority for permitting general business licensing, zoning, land use, environmental, and health and safety requirements and to impose consistent penalties for the violation thereof; and

WHEREAS, such regulations are distinct and separate from those regulations affecting pawnbrokers and second-hand dealers as presently addressed in the Code, a new Chapter is required to the Code to regulate scrap metal businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. That a new Chapter 5.60 entitled "Scrap Metal Business License" of the Sunnyside Municipal Code, shall be and hereby is created and shall read as follows:

Chapter 5.60
SCRAP METAL BUSINESS LICENSE

Sections:

- 5.60.010 Scrap Metal Business License Required - - Definitions - - Fees.
- 5.60.020 State License Required - - Adoption of Statute by Reference.
- 5.60.030 Prohibited Acts - - Penalties.
- 5.60.040 Inspection of Licensed Premises and Records.
- 5.60.050 Enforcement.

5.60.010 **SCRAP METAL BUSINESS LICENSE REQUIRED - DEFINITIONS - FEES.**

- A. It is unlawful for any person to engage in the scrap metal business, as a scrap metal processor, scrap metal recycler, or a scrap metal supplier, without having first obtaining a license from the City, and paying the license fee.

B. Scrap metal business, as defined by this Chapter, shall include:

1. "Scrap metal processor" which means a person or entity that conducts business from a permanent location within the City, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and maintains a hydraulic bailer, shearing device, or shredding device for recycling.
2. "Scrap metal recycler" which means a person or entity that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap business and that maintains a fixed place of business within the City.
3. "Scrap metal supplier" which means a person or entity that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycler or scrap metal processor and that does business within the City.

C. The provisions of this Chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under Chapter 46.79 or 46.80 RCW, and acquired in accordance with those laws or transactions conducted by the following:

1. Motor vehicle dealers licensed under Chapter 46.70 RCW;
2. Persons or entities in the business of operating an automotive repair facility as defined under RCW 46.71.011; and
3. Persons or entities in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

D. The license fee for each scrap metal business shall be as set forth in Chapter 5.52 of this Code.

5.60.020 STATE LICENSE REQUIRED - ADOPTION OF STATUTE BY REFERENCE.

- A. As a condition of the issuance of a scrap metal business license as provided in Section 5.60.010 above, the business license applicant shall have applied for, and received a State scrap metal license.

B. For the purpose of regulating the scrap metal business, the following statutes and their subsequent amendments and additions thereto, are hereby adopted by reference:

1. RCW 19.290.010 "Definitions."
2. RCW 19.290.020 "Private metal property or nonferrous metal property - - Records required."
3. RCW 19.290.030 "Metal property and metallic wire -- requirements for transaction."
4. RCW 19.290.040 "Scrap metal businesses - - Record of commercial accounts."
5. RCW 19.290.050 "Reports to law enforcement - - Records exempt from public disclosure - - Private civil liability."
6. RCW 19.290.060 "Stolen metal property - - Preserving evidence."

5.60.030 PROHIBITED ACTS - PENALTIES. It is a gross misdemeanor for:

- A. Any person or entity to engage in the scrap metal business without having first applied for and received a scrap metal business license under this Chapter and from the Washington State Department of Licensing or engaging in such business following the expiration, or revocation of such license.
- B. Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business.
- C. Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated.
- D. Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this Chapter and Chapter 19.290 RCW.
- E. Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property

from any person under the age of eighteen (18) years or any person who is discernibly under the influence of intoxicating liquor or drugs.

- F. Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past four years whether the person is acting in his or her own behalf or as the agent of another.
- G. Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen.
- H. Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this Chapter or Chapter 19.290 RCW.
- I. Any scrap metal business to engage in a series of transactions valued at less than thirty dollars (\$30.00) with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4).
- J. Any person to knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal.

5.60.040 INSPECTION OF LICENSED PREMISES AND RECORDS. The Police Chief of the City of Sunnyside, or his designee, may make periodic inspections of the licensee's licensed premises and records provided for in this Chapter and as required by Chapter 19.290 RCW, and furnish a certificate of inspection to the Department of Licensing in such manner as may be determined by the Department. Licensees are subject to unannounced periodic inspections as described in this section.

5.60.050 ENFORCEMENT. In addition to those requirements provided in Chapter 5.56 of this Code, including revocation of license, enforcement of this Chapter may include that authority granted by the following statutes, their amendments, and additions as follows:

- A. RCW 19.290.080 "Civil penalties."
- B. RCW 19.290.220 "Scrap theft alert system."
- C. RCW 19.290.230 "Seizure and forfeiture."
- D. RCW 19.290.250 "No-buy list database program - - Scrap metal business to determine if customer is listed."

SECTION 2. That Chapter 5.24 entitled "Pawnbrokers and Second-Hand Metal Dealers" of the Sunnyside Municipal Code, shall be and hereby is amended and shall read as follows:

Chapter 5.24
PAWNBROKERS

Sections:

- 5.24.010 Definitions.
- 5.24.020 Compliance with Chapter 19.60 RCW.
- 5.24.030 License - Required - Application - Fee.
- 5.24.040 Licensee - Terms.
- 5.24.050 Licensee daily reports to Police Chief.
- 5.24.060 Violations - Penalty.

5.24.010 DEFINITIONS.

"Pawnbroker" means every person engaged, in whole or in part, in the business of loaning money on the security of pledges of personal property or deposits or conditional sales of personal property, or the purchase or sale of personal property. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010].

5.24.020 COMPLIANCE WITH CHAPTER 19.60 RCW.

Pawnbrokers licensed pursuant to this chapter shall comply with Chapter 19.60 RCW. Those provisions of Chapter 19.60 RCW applicable to pawnbrokers are hereby adopted by reference as and for a portion of the Sunnyside Municipal Code and apply to pawnbrokers under this Chapter. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010.]

5.24.030 LICENSE - REQUIRED - APPLICATION - FEE.

- A. No person shall engage in the business of a pawnbroker in the City without first procuring a license therefor.
- B. In order to procure a license, an applicant shall present to the City an application which shall contain the name of the applicant, the place, including telephone number, where he proposes to conduct the business, the name under which the

same shall be conducted, and the names of persons interested in the business if a partnership, corporation or other business organization.

- C. If such application is approved, the City Manager, or his/her designee, shall issue a license to the applicant upon his executing and delivering to the City a bond to be approved by the City Attorney, in the amount of \$1,000, conditioned that he will conduct such business in compliance with all of the ordinances of the City and the laws of the State. The license fee shall be the sum of \$250.00 per year. The license shall not be assignable or transferable. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010.]

5.24.040 LICENSEE - TERMS.

- A. All licenses issued under this chapter shall expire on the thirty-first day of December next succeeding the date of issuance and no reduction in license fee shall be made for any period less than one year. Such license shall be subject to revocation by the City Manager, or his/her designee, upon a determination by a preponderance of evidence that the licensee has failed to comply with any provision of this chapter, or any other provision of the Sunnyside Municipal Code or State law. Such determination, along with the reasons therefor, shall be provided to the licensee in writing. If a pawnbroker license is revoked, the licensee shall cease all pawnbroking business within 30 days from the date of such revocation.
- B. The holder of a license whose license has been revoked by the City Manager in accordance with subsection (A) of this section shall be entitled to a hearing before the City Council at the next scheduled meeting, provided such request is made in writing within 14 days after receipt of the notice of revocation. At the hearing before the City Council, the burden is upon the licensee to establish why the license should not be revoked. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010.]

5.24.050 LICENSEE DAILY REPORTS TO POLICE CHIEF.

Every licensee under this chapter doing business in the City shall provide reports of daily activity, as set forth in RCW 19.60.040, on a daily basis. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010.]

5.24.060 VIOLATIONS - PENALTY.

Any person violating this chapter shall be deemed to have committed a civil infraction and shall be assessed the monetary penalty authorized pursuant to SMC 1.16.010. [Ord. 2011-2 § 1 (Exh. A), 2011; Ord. 2010-20 § 1 (Exh. A), 2010.]

SECTION 3. The City Clerk shall, pursuant to RCW 35.21.180, maintain no less than one copy of Chapter 19.290 RCW, and the amendments and additions thereto,

First Reading: April 14, 2014

Second Reading: April 28, 2014

including those portions which are adopted by reference by this Ordinance, for use and examination by the public prior to the effective date of this Ordinance.

SECTION 4. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED this 28th day of April, 2014.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, GMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside