

**REGULATIONS PROMULGATED BY THE COLLIN COUNTY  
COMMISSIONERS COURT**

**SECONDARY METALS RECYCLERS**

**ARTICLE I.  
REQUIREMENTS OF BUSINESSES OPERATING AS SECONDARY METAL  
RECYCLERS**

- Sec. 1.1. Purpose.
- Sec. 1.2. Definitions.
- Sec. 1.3. Records ~~required~~ to be maintained and submission of records to electronic web based database.
- Sec. 1.4. Notice to sellers.
- Sec. 1.5. Facsimile, telecopier, or similar equipment required.
- Sec. 1.6. Restrictions on the purchase of regulated metal property.
- Sec. 1.7. Five-day hold on regulated metal property; segregation, labeling, and inspection of regulated metal property; exceptions.
- Sec. 1.8. Hold on stolen regulated metal property; hold notice.
- Sec. 1.9. Conflicts, Other Criminal Penalties, and Exceptions.

**ARTICLE II.  
LICENSING OF SECONDARY METALS RECYCLERS.**

- Sec. 2.1. License required.
- Sec. 2.2. Issuance of License; posting.
- Sec. 2.3. Fees.
- Sec. 2.4. Expiration of License.
- Sec. 2.5. Suspension.
- Sec. 2.6. Revocation.
- Sec. 2.7. Injunction or Other Remedy

Sec. 2.8. Transfer of License.

## **ARTICLE I.**

### **SEC. 1.1. PURPOSE.**

This Order is an exercise of the Collin County Commissioner's authority under Chapter 1956 of the Texas Occupations Code to promote, through regulation of secondary metals recyclers, the recovery of stolen property. This Order provides licensing and recordkeeping requirements and enforcement procedures that will enable the Collin County Sheriff's office to identify and recover public and private property composed of certain metals that may have been illegally appropriated.

### **SEC. 1.2. DEFINITIONS.**

In this Order:

(1) **CATALYTIC CONVERTER** means a device used to reduce the toxicity of emissions from an internal combustion engine through the use of a catalyst (typically a platinum-iridium catalyst) that converts the toxic combustion by-products into less toxic gases or products.

(2) **CHECK** means a check, draft, or other negotiable or nonnegotiable order of withdrawal that is drawn against funds held by a financial institution.

(3) **SHERIFF** means the Sheriff for Collin County, Texas, or a designated representative

(4) **FERROUS METAL** means a metal that contains significant quantities of iron or steel.

(5) **HOLD NOTICE** means written notification by the Sheriff to a secondary metals recycler stating that the secondary metals recycler may not sell, redeem, or dispose of certain regulated metal property that the Sheriff has reasonable cause to believe has been stolen.

(6) **LICENSEE** means a person in whose name a License has been issued under this chapter or a person listed as an applicant on the application for a License.

(7) **NONFERROUS METAL** means a metal that does not contain significant quantities of iron or steel, including, but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(8) **PERSON** means an individual, partnership, corporation, joint venture, trust, association, and any other legal entity.

(9) PERSONAL IDENTIFICATION CERTIFICATE means a personal identification card issued by the Texas Department of Public Safety under Chapter 521, Subchapter E of the Texas Transportation Code, as amended, or a similar card or certificate issued by another state.

(10) PURCHASE TRANSACTION means a transaction in which a secondary metals recycler gives consideration, or agrees to give consideration, in exchange for regulated metal property.

(11) REGULATED METAL PROPERTY means any item composed in whole or in part of any ferrous or nonferrous metal, other than an item composed in whole of tin.

(12) SECONDARY METALS RECYCLER means any person who:

(A) is engaged in the business of purchasing, collecting, or soliciting regulated metal property; or

(B) operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer, or salvage.

(13) SELLER means any person who, in a purchase transaction, receives consideration from a secondary metals recycler in exchange for regulated metal property.

(14) THUMBPRINT IMPRESSION means an intentional recording of the friction ridge detail on the volar pads of the thumb.

(15) BURNT WIRE means any regulated metal that appears to be burnt, or has been altered by fire

**SEC. 1.3. RECORDS REQUIRED TO BE MAINTAINED AND SUBMISSION OF RECORDS TO ELECTRONIC WEB BASED DATABASE.**

(a) A secondary metals recycler shall maintain an accurate and legible record of each purchase transaction. The information may be maintained in electronic format. Each transaction must be recorded and filed separately. A business or entity licensed under this Order shall record the information to an electronic web based database in a form and method approved by the Collin County Sheriff's Office.

Formatted: Highlight

(b) The record of each purchase transaction must be in English and contain the following information:

(1) the name and street address of the secondary metals recycler;

(2) the name or initials of the individual recording the information required by this section for the secondary metals recycler;

(3) the seller's name, street address, sex, and birth date and the identifying number from the seller's current and valid driver's license issued by a state in the United States, United States military identification card, or a identification card issued by the Texas Department of Public Safety.

(4) the make, model, and license plate number of the motor vehicle in which the regulated metal property is delivered in a purchase transaction, along with a clear digital still photograph of the motor vehicle and any trailer attached to the motor vehicle (photograph shall include the license plate of vehicle/trailer)

(5) the place, date, and time of the purchase transaction;

(6) the weight, quantity, or volume and a description, made in accordance with the custom of the trade of the regulated metal property purchased, along with a clear digital still photograph of the regulated metal property;

(7) a general description of the predominant types of regulated metal property purchased in the purchase transaction;

(8) the amount of consideration given in a purchase transaction for the regulated metal property and, if the seller was:

(A) paid by check, a copy of the check or;

(9) written documentation evidencing that the seller is the legal owner, or is lawfully entitled to sell, the regulated metal property or a signed statement from the seller affirming a legal right of ownership and the right to sign over title to the regulated metal property offered for sale;

(10) a clear digital still photograph of the seller, taken at the time of the purchase transaction, that clearly depicts the seller's facial features; and

(11) a clear and legible thumbprint impression of the seller.

(c) A person selling or attempting to sell regulated metal property to a secondary metals recycler shall provide the following information to the secondary metals recycler:

(1) display to the secondary metals recycler the person's current and valid driver's license issued by a state in the United States, United States military identification card, valid identification card issued by the Texas Department of Public Safety;

(2) provide to the secondary metals recycler the make, model, and license plate number of the motor vehicle, and trailer used to deliver the regulated metal property; and

(3) sign a written statement provided by the secondary metals recycler affirming that the person is the legal owner of, or is lawfully entitled to sell, the regulated material offered for sale.

(d) The secondary metals recycler or the recycler's agent shall visually verify the accuracy of the identification presented by the seller at the time of each purchase of regulated metal property and make a copy of the identification to be maintained by the secondary metals recycler in the record of the purchase transaction.

(e) A secondary metals recycler shall maintain on file the information required by this section for not less than three years after the date of the purchase transaction. A secondary metals recycler shall make these records available for inspection by any Sheriff deputy, or police officer, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

(f) A business or entity licensed under this Order shall record the information required under this section to an electronic internet or web-based database in a form and method approved by the Collin County Sheriff's Office. The business or entity shall file all required information by the end of business day on which the transaction occurred. The business or entity and the Collin County Sheriff's Office may agree to use the electronic internet or web-based database system as the record keeping method for transactions subject to this Order, subject to approval by the Collin County Sheriff's Office. The Collin County Sheriff's Office may allow less data to be reported under this subsection if necessary to accommodate the database format chosen by the Collin County Sheriff's Office. Failure to comply with any provision of this section shall be grounds for the suspension of, revocation of, refusal to issue, or renew any license required by this Order.

Formatted: Highlight

Formatted: Highlight

#### SEC. 1.4. NOTICE TO SELLERS.

(a) A secondary metals recycler shall at all times maintain in a prominent place in the secondary metals recycler's place of business, in open view to a seller of regulated metal property, a notice in lettering at least two inches tall that:

(1) contains the following or similar language approved by the Sheriff:

"A PERSON ATTEMPTING TO SELL ANY REGULATED METAL PROPERTY MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP AS REQUIRED BY AN ORDER OF THE COLLIN COUNTY COMMISSIONERS" "WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL."; and

(2) states the usual business hours of the secondary metals recycler.

(b) The notice required by this section may be contained on a sign that contains another notice required by law to be displayed by the secondary metals recycler.

**SEC. 1.5. FACSIMILE, TELECOPIER, OR SIMILAR EQUIPMENT REQUIRED.**

A secondary metals recycler shall maintain at its place of business, or otherwise have immediate access to, a facsimile, telecopier, or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the Sheriff's Office, police department, or other law enforcement agency. The equipment must be operable at all times during the usual and customary business hours of the secondary metals recycler. The secondary metals recycler shall maintain the facsimile number or other access number of the equipment on file with the Sheriff's Office and shall notify the Sheriff's Office within 24 hours after any change in the number.

**SEC. 1.6. RESTRICTIONS ON THE PURCHASE OF REGULATED METAL PROPERTY.**

(a) A secondary metals recycler shall conduct all purchase transactions only from 7:00 AM to 7:00 PM.

(b) A secondary metals recycler shall not purchase any item of regulated metal property from:

(1) an intoxicated person; or

(2) a person who does not deliver the item of regulated metal property to the secondary metals recycler's place of business in a motor vehicle or in a trailer attached to a motor vehicle.

(c) A secondary metals recycler shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (such as by a receipt or bill of sale) or proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property and the seller is authorized to sell the item of regulated metal property on behalf of the person, business, or entity owning the property:

(1) A manhole cover.

(2) An electric light pole or other utility structure and its fixtures and hardware.

(3) A guard rail.

- (4) A street sign, traffic sign, or traffic signal and its fixtures and hardware.
  - (5) Communication, transmission, and service wire.
  - (6) A funeral marker or funeral vase.
  - (7) An historical marker.
  - (8) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.
  - (9) Any metal item that is marked with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad.
  - (10) A copper or aluminum condensing or evaporator coil from a heating or air conditioning unit.
  - (11) An aluminum or stainless steel container or bottle designed to hold propane for fueling fork lifts.
  - (12) Metal cylinders designed to contain compressed air, oxygen, gases, or liquids.
  - (13) A catalytic converter or any part of a catalytic converter.
  - (14) "Burnt Wire" in any quantity.
- (d) A secondary metals recycler shall maintain on file the information required by Subsection (c) of this section for not less than three years after the date of the purchase of the item of regulated metal property. A secondary metals recycler shall make these records available for inspection by any Sheriff's Deputy, upon request, at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.
- (e) A secondary metals recycler may, at the time of purchase, give consideration in the form of cash

**SEC. 1.7. FIVE-DAY HOLD ON REGULATED METAL PROPERTY; SEGREGATION, LABELING, AND INSPECTION OF REGULATED METAL PROPERTY; EXCEPTIONS.**

(a) Except as provided in Subsection (c) of this section, a secondary metals recycler shall retain possession of purchased regulated metal property at the secondary metals recycler's local place of business and withhold the property from alteration, processing, resale, or salvage use for five days after purchase, unless the property is released sooner by written order of the Sheriff or by order of a court of competent jurisdiction.

(b) A secondary metals recycler shall segregate all regulated metal property purchased from a seller from regulated metal property purchased from other sellers and attach to the property, or to the container in which the property is held, a label indicating the name of the seller, the date on which the property was purchased, and the number of the receipt on which the purchase information is recorded. If in any single purchase transaction there are multiple items of regulated metal property of the same general type, only one representative item from each type of regulated property must be segregated and labeled in accordance with this subsection. (note, is this the intent of the CCSO) yes!

(c) While in possession of purchased regulated metal property, a secondary metals recycler shall make the property available for inspection by any Sheriff's Deputy, Police officer, or other law enforcement officer at the secondary metals recycler's place of business during the usual and customary business hours of the secondary metals recycler.

**SEC. 1.8. HOLD ON STOLEN REGULATED METAL PROPERTY; HOLD NOTICE.**

(a) Whenever a Sheriff deputy or police officer has reasonable suspicion to believe that certain items of regulated metal property in the possession of a secondary metals recycler are stolen, the Sheriff may issue a hold notice. The hold notice must:

(1) identify those items of regulated metal property alleged to be stolen and subject to hold; and

(2) inform the secondary metals recycler of the restrictions imposed on the regulated metal property under Subsection (b) of this section.

(b) A secondary metals recycler may not, for 60 days after the date of receiving a hold notice under this section, process or remove from the secondary metals recycler's place of business any regulated metal property identified in the hold notice, unless the property is released sooner by the Sheriff, police officer, or by order of a court of competent jurisdiction. At the expiration of the hold period, the hold is automatically released, and the secondary metals recycler may dispose of the regulated metal property unless otherwise directed by a court of competent jurisdiction.

**SEC. 1.9. CONFLICTS, OTHER CRIMINAL PENALTIES, AND EXCEPTIONS.**

(a) This Order shall apply to any Secondary Metals Recycler that operates a place of business in Collin County, Texas. If a covered entity is located inside a Municipality and that Municipality has an Ordinance which covers secondary metal recyclers and similar issues, the Ordinance of the Municipality shall control.

(b) This Order shall not prevent any law enforcement office of competent jurisdiction in Collin County from pursuing Criminal charges as allowed under Texas

Occupations Code Section 1956.040 or any other criminal penalty applicable to issues related to this Order.

(c) This Order shall not apply to the purchase of metals which:

(1) is purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization or association or from any organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended;

(2) is purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator, or receiver; from any public official acting under judicial process or authority; or from a sale on the execution, or by virtue, of any process issued by a court;

(3) consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling, other than beer or beverage kegs; or

(4) is a purchase from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.

(5) is a purchase of regulated material by a manufacturer whose primary business is the manufacture of iron and steel products made from melting scrap iron and scrap steel.

## **ARTICLE II. LICENSING OF SECONDARY METALS RECYCLERS.**

### **SEC. 2.1. LICENSE REQUIRED.**

(a) A person who conducts business as a secondary metals recycler in Collin County, Texas, must be licensed under this Order. Each entity covered by this Order must acquire the License by January 15, 2011, or for any business that opens after January 15, 2011, such business may not operate as a secondary metal recycler until acquiring the License under this Order.

(b) An application for a License must be made on a form provided by the Sheriff. Each applicant must be qualified according to the provisions of this Order.

(c) If the applicant is a Sole Proprietorship, the owner must sign the application. If the applicant is a legal entity, including but not limited to a corporation, partnership, association, or joint venture, each individual who has a 20 percent or greater interest in the business must sign the application for a License as an applicant. Each applicant must

meet the requirements of Section 2.2(a), and each applicant will be considered a licensee if a License is granted.

(d) An applicant is not exempt from the License requirements of this Order by having some other form of Federal or State Government issued certificate or License.

## **SEC. 2.2. ISSUANCE OF LICENSE; POSTING.**

(a) The Sheriff shall issue a License to an applicant within 30 days after receipt of an application unless it is determined that one or more of the following is true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or an applicant's spouse is overdue in payment to the county of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse.
- (3) An applicant failed to answer or falsely answered a question or request for information on the application form provided.
- (4) An applicant or an applicant's spouse has been convicted of an offense which originated from Texas Occupations Code Section 1956.040. The fact that a conviction is being appealed has no effect.
- (5) The License fee required by this chapter has not been paid.
- (6) An applicant has been convicted of a felony or a Class A misdemeanor involving theft or fraud, including but not limited to theft, robbery, burglary, forgery, criminal simulation, deceptive business practices, securing execution of document by deception, or any other similar state or federal criminal offense, and three years have not elapsed since the termination of any sentence, parole, or probation; the fact that a conviction is being appealed has no effect. If three years have elapsed, the Sheriff shall, in accordance with Section 53.023 of the Texas Occupations Code, as amended, determine the present fitness of the applicant to be licensed from the information and evidence presented with the application.
- (7) An applicant has been convicted of an offense under any federal or state law providing for recordkeeping or licensing requirements for persons purchasing or selling regulated metal property, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(b) The License, if granted, must state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the premises for which the License is granted. A License issued pursuant to this chapter is valid only for the location stated in the application. Should any licensee move a place of business from

the place stated on the License to a new location, the licensee shall give the Sheriff prior written notice and present the License to the Sheriff to have the change of location noted on the License.

(c) A License must be posted in a conspicuous place at or near the entrance to the licensed premises so that it may be easily read at any time.

(d) If the Sheriff determines that issuance or renewal of a License should be denied, the Sheriff shall send to the applicant or licensee by certified mail, return receipt requested, a written statement of the reasons for the denial and of the applicant or licensee's right to appeal.

### **SEC. 2.3. FEES.**

The annual fee for a License issued under this article is \$245. The fee is payable to Collin County, Texas.

### **SEC. 2.4. EXPIRATION OF LICENSE.**

Each License will expire one year from the date of issuance and may be renewed only by making application as provided in Section 2.1. To ensure reissuance of a License prior to expiration, application for renewal should be made at least 30 days before the expiration date.

### **SEC. 2.5. SUSPENSION.**

(a) The Sheriff shall suspend a License for a definite period of time, not exceeding 30 days, if the Sheriff determines that a licensee, an individual who is a business associate of the licensee in the same or a related business or a corporate officer of the licensee, or an employee of the licensee:

(1) committed, in the aggregate, two or more violations of this chapter within any six-month period; or

(2) intentionally or knowingly impeded or refused to allow an inspection by the Sheriff authorized under this chapter.

(b) The Sheriff shall send to the Licensee by certified mail, return receipt requested, a written statement of the reasons for the suspension, the date the suspension is to begin, the duration of the suspension, and the licensee's right to appeal.

(c) A licensee whose License is suspended may not operate as a secondary metals recycler inside the county during the period of suspension.

### **SEC. 2.6. REVOCATION.**

(a) The Sheriff shall revoke a License if it is determined that one or more of the following is true:

(1) A Licensee has given a false statement as to a material matter submitted to the Sheriff during the application process.

(2) A licensee, an individual who is a business associate of the licensee in the same or a related business or a corporate officer of the licensee or an employee of the licensee has been convicted within a two-year period of three or more offenses under this chapter. If a conviction is appealed, the time period between conviction and final disposition on appeal of the conviction is not included in calculating the two-year period if the conviction is affirmed.

(3) A licensee has been convicted of any felony or of a Class A misdemeanor involving theft or fraud, including but not limited to theft, robbery, burglary, forgery, criminal simulation, deceptive business practices, securing execution of document by deception, or any other similar state or federal criminal offense, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(4) A licensee has been convicted of an offense under any federal or state law providing recordkeeping or licensing requirements for persons purchasing or selling regulated metal property, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(5) A cause for suspension under Section 2.5 has occurred and the License has already been suspended at least once within the preceding 12 months.

(6) The licensee does not qualify for a License under Section 2.2(a).

(b) The Sheriff shall send to the licensee by certified mail, return receipt requested, a written statement of the reasons for the revocation and of the licensee's right to appeal.

(c) When the Sheriff revokes a License, the revocation will continue for one year, and the licensee may not be issued a License for one year from the date revocation became final. If, subsequent to revocation, the Sheriff finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a License if at least 90 days have elapsed since the date the revocation became final. If the License was revoked under Subsection (a)(3) or (a)(4) of this section, an applicant may not be granted another License within three years of the termination of any sentence, parole, or probation.

## **SEC. 2.7 INJUNCTION OR OTHER REMEDIES**

If the Sheriff determines that a secondary metals recycling business is operating without a License and such business refuses to acquire the License as set out in this

Order, the Sheriff may take any appropriate legal action including but not limited to the filing for an Injunction or Court Order to prevent the business from operating in violation of this Order. If a secondary metals recycling business has a suspended or revoked License and continues to operate in violation of this Order, the Sheriff may take any appropriate legal action including but not limited to the filing for an Injunction or Court Order to prevent the business from operating in violation of this Order.

**SEC. 2.8. TRANSFER OF LICENSE.**

A licensee shall not:

- (1) transfer a License issued under this chapter to another; or
- (2) operate a business engaged in the purchase of regulated metal property for resale or salvage use under the authority of a License at any location other than the address designated in the License application.