

ORDINANCE NO. 14,658

AN ORDINANCE OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 82 "SECONDHAND GOODS," ARTICLE II "METALS, CRAFTED PRECIOUS METALS AND GEMS," DIVISION 2 "METALS," SECTION 82-55 "DEFINITIONS," SECTION 82-59 "LICENSE REQUIRED; POSTING OF LICENSE"; SECTION 82-62 "LICENSE FEES; USE OF LICENSE AT SHOWS"; SECTION 82-63 "RECORDS REQUIRED TO BE KEPT BY METAL RECYCLING ENTITIES AND SECONDHAND METAL DEALERS," SUBSECTION (A)(5); AND SECTION 82-79 "REJECTION; REFUSAL TO RENEW; REVOCATION; HEARING; PENALTY," SUBSECTION (B) "NOTICE" AND SUBSECTION (C) "APPEAL" OF THE CODE OF ORDINANCES, BAYTOWN, TEXAS, TO REMOVE THE LICENSING REQUIREMENTS RELATED TO THE SECONDHAND DEALERS; PRESCRIBING A MAXIMUM PENALTY OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00); PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That Chapter 82 "Secondhand Goods," Article II "Metals, Crafted Precious Metals and Gems," Division 2 "Metals," Section 82-55 "Definitions" of the Code of Ordinances, Baytown, Texas, is hereby amended to amend the definition of "Licensee," which amended definition shall read as follows:

**CHAPTER 82. SECONDHAND GOODS**

**ARTICLE II. METALS, CRAFTED PRECIOUS METALS AND GEMS**

**DIVISION 2. METALS**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Sec. 82-55. Definitions.**

*Licensee* means a person who holds a license to conduct business as a metal recycling entity or a secondhand metal dealer.

Section 2: That Chapter 82 "Secondhand Goods," Article II "Metals, Crafted Precious Metals and Gems," Division 2 "Metals," Section 82-59 "License required; posting of license" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

**CHAPTER 82. SECONDHAND GOODS**

**ARTICLE II. METALS, CRAFTED PRECIOUS METALS AND GEMS**

**DIVISION 2. METALS**

**Sec. 82-59. License required; posting of license.**

No person shall operate as a metal recycling entity or secondhand metal dealer, or own any such business without a license as herein provided. Any person who engages in more than one business described herein at the same location must obtain a license only for his principal business activity and not for the other businesses. The provisions of section 82-63, requiring that certain records be kept, apply to all businesses carried on at a single location. A separate license shall be required for each permanent location of any such business. The license shall be prominently displayed at all times at or near the principal public entrance to the licensed premises in such a manner that it will be conspicuous to customers who enter the premises.

Section 3: That Chapter 82 "Secondhand Goods," Article II "Metals, Crafted Precious Metals and Gems," Division 2 "Metals," Section 82-62 "License fees; use of license at shows" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

## **CHAPTER 82. SECONDHAND GOODS**

### **ARTICLE II. METALS, CRAFTED PRECIOUS METALS AND GEMS**

#### **DIVISION 2. METALS**

##### **Sec. 82-62. License fees; use of license at shows.**

- (a) Except as provided in subsection (d) of this section, the nonrefundable license fee for a metal recycling entity or a secondhand metal dealer with any permanent place of business within the city shall be \$250.00 yearly, payable prior to the issuance of the license. Such license, unless revoked as provided herein, shall be valid for one year from the date of issuance.
- (b) Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city; provided the same is displayed at all times at or near the principal public entrance to the area where licensee is exhibiting and is conspicuous to customers who enter such area.
- (c) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$10.00 per day.

Section 4: That Chapter 82 "Secondhand Goods," Article II "Metals, Crafted Precious Metals and Gems," Division 2 "Metals," Section 82-63 "Records required to be kept by metal recycling entities and secondhand metal dealers," Subsection (a)(5) of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

## **CHAPTER 82. SECONDHAND GOODS**

### **ARTICLE II. METALS, CRAFTED PRECIOUS METALS AND GEMS**

#### **DIVISION 2. METALS**

##### **Sec. 82-63. Records required to be kept by metal recycling entities and secondhand metal dealers.**

- (a) The provisions of this section apply to all businesses carried on at a single location. With the exception of the sale or transfer of aluminum cans, a metal recycling entity or secondhand metal dealer shall keep at his place of business a record in an electronic database, in a form and method approved by the chief of police, in which he shall enter daily, in English, a full description of each transaction in which personal property is purchased or otherwise received at his place of business. Such description shall include:

- ...
- (5) A description of the motor vehicle and/or trailer or other mode of transportation in or on which each item received was carried, delivered or transported to the metal recycling entity's or the secondhand metal dealer's place of business, including state and license plate number, if applicable;

Section 5: That Chapter 82 "Secondhand Goods," Article II "Metals, Crafted Precious Metals and Gems," Division 2 "Metals," Section 82-79 "Rejection; refusal to renew; revocation; hearing; penalty," Subsection (b) "Notice" and Subsection (c) "Appeal" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

## **CHAPTER 82. SECONDHAND GOODS**

### **ARTICLE II. METALS, CRAFTED PRECIOUS METALS AND GEMS**

#### **DIVISION 2. METALS**

##### **Sec. 82-79. Rejection; refusal to renew; revocation; hearing; penalty.**

- (b) *Notice.* If the city clerk rejects an application, refuses to renew or revokes any license issued under this division to a metal recycling entity, secondhand metal dealer or secondhand dealer for failure to comply with any provision of this division, the city clerk shall give written notice by certified mail to the applicant at the address stated in the application of the metal recycling entity, secondhand metal dealer or secondhand dealer. The written notice shall specifically set forth the reasons for the rejection, refusal or revocation.
- (c) *Appeal.* The metal recycling entity, secondhand metal dealer or secondhand dealer shall have ten days from the date of the receipt of mailing of the notice of rejection, refusal or revocation of his license to appeal the rejection, refusal or revocation of the license to the city manager. Upon receipt of an appeal notice, the city clerk shall notify the metal recycling entity, secondhand metal dealer or secondhand dealer of the date and time of the hearing, to be held at the earliest time practicable.

Section 6: Any person who fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

Section 7: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects, this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 8: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances; and to this end, all provisions of this ordinance are declared to be severable.

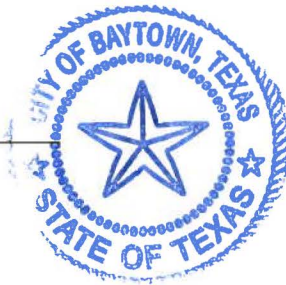
Section 9: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown, this the 28<sup>th</sup> day of January, 2021.

  
BRANDON CAPETILLO, Mayor

ATTEST:

  
LETICIA BRYSCH, City Clerk



APPROVED AS TO FORM:

  
KAREN L. HORNER, City Attorney