

COURT ORDER NO. 92-208-202-24

THE STATE OF TEXAS	§	ORDER <u>AMENDING COURT</u>
	§	ORDER NO. <u>92-208-02-24</u>
<u>REGULATING</u>		
		<u>AUTOMOTIVE-</u> §
		<u>WRECKING SALVAGE AND</u>
COUNTY OF COLLIN	§	<u>SALVAGE AND JUNKYARDS</u>
<u>AS AMENDED</u>		

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On ~~February 24, 1992~~, 20120, the Commissioners Court of Collin County, Texas, met in regular session with the following members present and participating, to writ:

	Ron Harris <u>Keith Self</u>	County Judge, Presiding
	Phyllis Cole <u>Matt Shaheen</u>	Commissioner,
Precinct 1		
	Jerry Hoagland <u>Jerry Hoagland</u> Cheryl Williams	
	Commissioner, Precinct 2	
	John Witherspoon <u>Joe Jaynes</u>	Commissioner,
Precinct 3		
	Jack Hatchell <u>Kathy Ward</u> Duncan Webb	
	Commissioner, Precinct 4	

During such session the Court considered adoption of the following ~~ordinance~~Order to ~~require licensing of all automotive wrecking and salvage yards and junkyards operating after June 1, 1987.~~ Amend Court Order No. 92-208-02-24, as amended.

WHEREAS, the Commissioners² Court of Collin County has concluded that the indiscriminate location and operation of junkyards or automotive wrecking and salvage yards, and the visibility of junked vehicles, vehicle parts and other junk, is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, creates fire and environmental hazards, and is detrimental to the economic welfare of the County by producing urban blight adverse to the maintenance and improvement of the quality of life,³ and constitutes a real and substantial threat to public health and safety; and

WHEREAS, the Commissioners² Court of Collin County recognized the screening standards as stated in Tex. Rev. Civ. Stat. Ann., art. 2372dd 1, Sec. 3(a) (1992 Supp.) as Transportation Code Chapter 396; and

WHEREAS, the Commissioners² Court of Collin County did conduct a public hearing, as specified in Tex. Rev. Civ. Stat. Ann., art. 237dd 1, Sec 5(b), prior to adopting this

~~ordinance; and has adopted Order No. 92-208-02-24, as amended by Court Order No. 093-141-11-09, regulating automotive wrecking and salvage yards and junkyards; and~~

WHEREAS, the Commissioners Court of Collin County has ~~the authority~~determined that it is necessary to adopt this ordinance under Tex. Rev. Civ. Stat. Ann., art. 2372dd-1, amend Court Order No. 92-208-02-24, as amended, to update such Order to conform to current statutory references and provisions; and

WHEREAS, the Commissioners Court of Collin County did conduct a public hearing, in accordance with the requirements of Texas Transportation Code Chapter 396, prior to adopting this Order; and

WHEREAS, the Commissioners Court of Collin County has the authority to adopt this Order under Texas Transportation Code Chapter 396.

NOW BE IT THEREFORE ORDERED by the Commissioners' Court of Collin County that Court Order 92-208-02-24, as amended, be amended to read in its entirety as follows:

SECTION ONE

DEFINITIONS

(1) "Automotive wrecking and salvage yard" means ~~any an outdoor place where a person or business that stores three (3) or more wrecked vehicles outdoors for the purpose of dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.~~

(2) "Change of ownership" means the sale or transfer of a majority of either the outstanding voting shares or of all outstanding shares of capital stock if the business is a corporation; the sale or transfer of a majority interest in any partnership if the business is a partnership or, the sale or transfer of the real property or a bulk sale of the inventory if the business is a sole proprietorship.

~~(3)~~ (3) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, including farm equipment, or other material (other than a wrecked vehicle) that has been discarded or sold at a nominal price by a previous owner of the material.

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(4) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk which is kept outdoors, until the business disposes of the junk.

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(5) "Recycling business" means a business that is primarily engaged in the business of:

- (a) converting ~~metal~~ferrous or ~~nonferrous metals, glass or other materials or other materials~~ into raw material products having prepared grades and having an existing or potential economic value;
- (b) using raw material products ~~of that kind~~described in Paragraph 5(a) above, in the production of new products; or
- (c) obtaining or storing metal~~ferrous~~ or ~~nonferrous metals, glass or~~ other materials for a purpose described by Paragraph 45(a) or 45(b), ~~above thereof.~~

~~(6)~~(6) “Wrecked vehicle” means a discarded, ~~abandoned,~~ junked, ~~damaged~~wrecked or worn out automotive vehicle, including an automobile, truck, tractor-trailer or bus, that is not in a condition to be lawfully operated on a public road.

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~~(7)~~(7) “Covered business” means the working and storage area of a junkyard or automotive wrecking and salvage yard, which begins operation after June 1, 1987.

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SECTION TWO

ADMINISTRATION

The procedures described in this ordinance shall be administered by a regular salaried County official, as designated by the Commissioners Court.

SECTION THREE

COUNTY LICENSE REQUIREMENTS

A. A license, issued by a County official or agency, as designated by the Commissioners Court, is required [pursuant to this Order](#) for:

- (1) junkyards or automotive wrecking and salvage yards beginning operation after the effective date of this ordinance; and,
- (2) junkyards or automotive wrecking and salvage yards which began operation prior to the effective date of this ordinance, but after June 1, 1987.
- (3) any expansion or enlargement of an existing junkyard, or automotive wrecking and salvage yard which occurs after the effective date of this ordinance.

A license shall be in effect for on (1) year.

B. An application for a license shall be considered, as to site location, by the Commissioners Court. For covered businesses beginning operation or expanding or enlarging after adoption of this ordinance Order, a license may be approved and issued only after the location requirements are satisfied. The location requirements for license issuance are:

- (1) the location of the proposed covered business shall not be detrimental to the public health, safety or welfare;
- (2) the location of the proposed covered business shall not create a hazard to the environment;
- (3) the location of the proposed covered business shall not be incompatible with surrounding development;
- (4) the proposed covered business shall be at least ~~three hundred feet (300'~~ thirty five feet (50') from the ~~property line~~ right-of-way of a ~~lot on which there is a church, a school, a park, a hospital, a nursing home, public street or road or a state highway, and at least fifty feet (50')~~ lot on which there is a church, a school, a park, a hospital, a nursing home, public street or road or a state highway, and at least fifty feet (50') from any residence. The distance shall be measured from the public street or road or state highway right-of-way or residence wall that is closest to the automotive wrecking and salvage yard or junkyard and ending at the fence required by this Order. The fifty (50') distance requirement in this Paragraph B(4) does not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment, (single family home, duplex, apartment, townhouse or mobile home), or the property line of a residential subdivision;
- (5) the location of the proposed covered business shall not be within one thousand feet (1,000') of any downstream lake, river, creek, tributary or pond;
- (6) the location of the proposed covered business shall not be within the one hundred (100) year flood plain.

~~C. A provisional license may be issued to covered businesses in operation prior to the adoption of the ordinance. To receive a provisional license, the covered business shall not be located within fifty feet (50') of the right of way of a state highway, public street, or residence. Notwithstanding the foregoing, a covered business in operation on September 1, 1991 shall receive a provisional license but shall comply with the above fifty foot (50') right of way requirement on the earlier of: A covered business in operation on the effective date of this Order shall receive a provisional license but shall comply with the requirements of this Order on the earlier of:~~

~~(1)the date on which ownership changes;~~

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~~(2)the date on which the lease of the property on which the junkyard or wrecking
and salvage yard is located terminates; or~~

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~~(3)September 1, 19942015.~~

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SECTION FOUR

SCREENING

~~A.~~ A. All junkyards and automotive wrecking and salvage yards shall be screened with a solid barrier fence that is at least eight feet (8') high, but may be up to twelve feet (12') high at the request of the applicant. The fence shall be painted a natural earth tone color and shall not have any signs appear on its surface other than signage indicating the business name. The fence shall be kept in good repair at all times.

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~~B.~~ A person may not accumulate or stack material associated with a junkyard or an automotive wrecking and salvage yard higher than eight feet above ground level. This stacking height restriction does not apply to a junkyard or automotive wrecking or salvage yard used only for farm equipment.

~~B.~~ The operator of the covered business shall allow access to the County Fire Marshal and Health Inspector for on site inspection, upon complaint or at reasonable business hours.

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SECTION FIVE

LICENSE APPLICATION PROCEDURE

A. A written application shall be made to the County official designated by the Commissioners Court within six (6) months after adoption of this ordinance for existing unlicensed covered businesses and prior to construction for proposed covered businesses. A written application shall be made to the County official designated by the Commissioners Court prior to the expansion or enlargement of any automotive wrecking and salvage yard or junkyard. The application must include the following:

- (1) four (4) 8"x10" color photographs showing the entire area of the covered business from a northern, eastern, southern and western view, and

- (2) a plat or scaled drawing which describes the physical layout of the facility and the area encompassed within three hundred feet (300') of the facility perimeter. Said plat or drawing shall include:
 - (a) all buildings, septic tanks, fences, material stacks and their location within the covered business; and
 - (b) all downstream lakes, rivers, creeks, tributaries, and ponds on or within one thousand feet (1,000') of the covered business, and the one hundred (100) year flood plain within the covered business; and
 - (c) all commercial and industrial buildings, residential subdivision, fences, railroads, private roads and prominent natural objects within three hundred feet (300') of the covered business.

Note: This application will be in addition to any building permit that will be required.

- B. Upon receipt, the application will be forwarded to the County Health Inspector and Fire Marshal for review and recommendations. The application, and recommendations, will then be forwarded to the Commissioners² Court for review and posted for a fourteen (14) day period prior to formal action taken by the Commissioners² Court.
- C. After approval by the Commissioners² Court, a permit to construct a proposed covered business will be issued. Upon completion of construction in accordance with the requirement of the permit and following final inspection, a certificate of occupancy and license for operation will be issued.
- D. An annual fee of twenty-five dollars (\$25.00) shall be paid at the time of application for the license or renewal.

SECTION SIX

RENEWAL AND REVOCATION

- A. A license issued under this ordinance may be renewed annually upon satisfaction of the following requirements;
 - (1) payment of a fee of twenty-five dollars (\$25.00); and
 - (2) provide an affidavit indicating that the covered business has not expanded or enlarged its location.

B. The Commissioners' Court may ~~revoke, suspend or~~ deny renewal of any license issued under this ~~ordinance~~ Order if:

(1) any screening requirements are violated; or

~~(2) said automotive wrecking and salvage yard or junkyard operators do not permit on-site inspections by the County Health Inspector and Fire Marshal; or~~

~~(3)~~(2) location requirements have not been complied with; or

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~~(4)~~(3) contents of the license application have been falsified.

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C. The Commissioners Court may suspend or revoke a license if the junkyard or automotive wrecking and salvage yard is not screened in accordance with the requirements of this Order.

C.D. In the event that a license is revoked, suspended or denied renewal, written notice shall be given to the license holder or its designated agent. The notice will include the following:

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(1) specific ~~instances~~ descriptions of the alleged violations(s) or noncompliance; and

~~(2)~~ language that the licensee may request a hearing before the Commissioners' Court, such request must be submitted in writing within ten (10) days of receipt

~~(3)~~(2) of the notice.

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SECTION SEVEN

HEARINGS

A. If a request for hearing is timely received, the licensee shall be given the opportunity to present evidence and be represented in said hearing.

B. The Commissioners Court shall notify the requesting party of the date and time of the hearing.

C. The hearing shall be held no later than thirty (30) days after the date of the suspension, revocation or denial of renewal.

D. The Commissioners' Court shall determine whether or not to uphold the actions of the County official in revoking, suspending or denying the license, which decision shall be final.

SECTION EIGHT

EXCEPTIONS

A. The County licensing requirement described in this ~~ordinance~~Order does not apply to the following:

- (1) a recycling business; or
- (2) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated ~~municipality~~city or town and that is subject to regulation in any manner by the ~~municipality~~city or town.
- (3) a junkyard or automobile wrecking and salvage yard in operation before June 1, 1987.

B. The County screening requirement described in this ordinance does not apply to the following:

- (1) ~~a wrecking and salvage yard~~a junkyard or automobile graveyard as defined by ~~Tex. Rev. Civ. Stat. Ann., art. 4477.9a~~ and subject to ~~Sec. 408 of that law~~Transportation Code Chapter 397;
- (2) a recycling business;
- (3) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated ~~city or town~~municipality and that is subject to regulation in any manner by the ~~city or town~~municipality.
- (3)(4) a junkyard as defined by Texas Transportation Code Section 391.001 and subject to Subchapter E, Chapter 391.

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SECTION NINE

INJUNCTION

Any person is entitled to injunctive relieve to prevent a violation or threatened violation of this ordinance, or Texas Transportation Code Chapter 396, from continuing or occurring.

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SECTION TENNINE

INJUNCTION

~~Any person is entitled to injunctive relief to prevent a violation or threatened violation of this ordinance, or Tex.Rev.Civ.Stat.Ann., art. 22372dd-1, from continuing or occurring.~~

SECTION TEN

CRIMINAL PENALTY

A person who knowingly ~~or intentionally~~ violates this ~~ordinance~~Order commits an offense. An offense under this ~~ordinance~~Order is a ~~Class C~~ misdemeanor. ~~punishable by a fine of not less than \$100 and not more than \$500.~~ A separate offense occurs each day on which all the elements of the offense exist.

SECTION ELEVEN

SEVERABILITY

If any section, subsection, word, sentence or phrase of this ordinance is declared to be invalid, it shall not affect the validity of any other section, subsection, word, sentence or phrase of this ordinance.