

COURT ORDER NO. _____

THE STATE OF TEXAS § **ORDINANCE OF COLLIN COUNTY,**
 § **TEXAS REGARDING LICENSING OF**
 § **JUNKYARDS AND AUTOMOTIVE**
COUNTY OF COLLIN § **WRECKING AND SALVAGE YARDS**

On _____, ____, 2014, the Commissioners Court of Collin County, Texas, met in regular session with the following members present and participating to-wit:

Keith Self	County Judge, Presiding
Mark Reid	Commissioner, Precinct 1
Cheryl Williams	Commissioner, Precinct 2
Chris Hill	Commissioner, Precinct 3
Duncan Webb	Commissioner, Precinct 4

During such session, the Court considered adoption of the following Ordinance to require licensing of all automotive wrecking and salvage yards and junkyards operating after June 1, 1987, under the authority granted by Transportation Code Chapter 396.

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

NOW THEREFORE, BE IT ORDERED by the Commissioners Court of Collin County, Texas as follows:

PART 1 — ADMINISTRATION AND PRELIMINARY PROVISIONS

SECTION 1.01 — AUTHORITY

This order (also referred to herein as “Ordinance”) is adopted by the Commissioners Court of Collin County, Texas acting in its capacity as the governing body of Collin County. The authority of Collin County to adopt this Ordinance is derived from Chapter 396, Subchapter A, Texas Transportation Code, as amended. This Ordinance may be amended at any time by a majority vote of Commissioners Court.

SECTION 1.02 – PRIOR ORDERS REPEALED

The prior Court Orders regulating automotive wrecking and salvage yards and junkyards, being Court Order No. 92-208-02-24, and Court Order No. 93-141-11-09 are hereby repealed and rescinded in their entirety

SECTION 1.03 — AREA COVERED BY ORDINANCE

This Ordinance applies in Unincorporated Areas, as defined below, after the effective date of this Ordinance.

PART 2 - DEFINITIONS

SECTION 2.01 - APPLICANT

"Applicant" means any person who is preparing or has filed an application for a license pursuant to this Ordinance.

SECTION 2.02 - AUTOMOTIVE WRECKING AND SALVAGE YARD

"Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

SECTION 2.03 – CHANGE OF OWNERSHIP

“Change of Ownership” means the sale or transfer of a majority of either: 1) the outstanding voting shares or outstanding shares of capital stock if the business is a corporation; 2) the sale or transfer of a majority interest in any partnership if the business is a partnership; 3) the sale of a majority interest if a limited liability company; 4) a bulk sale of the inventory if the business is a sole proprietorship; or 5) the sale or transfer by an owner of the real property on which the automotive wrecking and salvage yard or junkyard is located.

SECTION 2.04 - DEVELOPMENT SERVICES DIVISION MANAGER

"Development Services Division Manager" means the Collin County employee holding the office of Development Services Division Manager.

SECTION 2.05 – EXPANSION OR ENLARGEMENT

The term “Expansion or “Enlargement” as used in this Ordinance means the addition of new land to the existing area of an automotive wrecking and salvage yard or a junkyard, that was not previously within the area of an existing automotive wrecking and salvage yard or a junkyard at the time such automotive wrecking and salvage yard or a junkyard was originally permitted by the County.

SECTION 2.06 - JUNK

"Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

SECTION 2.07 - JUNKYARD

"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 outdoors until the business disposes of the junk.

SECTION 2.08 - LICENSE

Unless the context requires otherwise, "License" shall apply to any license issued under this Ordinance, whether for an existing facility or new facility, or whether an initial license or a renewal license.

SECTION 2.09 - PERSON

"Person" includes, in addition to an individual, a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

SECTION 2.10 - PROPOSED YARD

"Proposed Yard" means the land to be occupied by a junkyard or automotive wrecking and salvage yard as specified in any application submitted for approval pursuant to this Ordinance.

SECTION 2.11 - RECYCLING BUSINESS

"Recycling Business" means a business primarily engaged in the business of:

- (a) converting metal or other material into raw material products that have:
 - i) prepared grades; and
 - ii) an existing or potential economic value;
- (b) using raw material products described by Paragraph (a) in the production of new products;
or
- (c) obtaining or storing metal or other material for a purpose described by paragraph (a) or (b).

SECTION 2.12 - UNINCORPORATED AREA

"Unincorporated Area" means the area in Collin County, Texas, which is not within an incorporated area of a city, town, or village.

SECTION 2.13 - WRECKED VEHICLE

"Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

PART 3 - GENERAL PROVISIONS

SECTION 3.01 - ADMINISTRATION BY THE DEVELOPMENT SERVICES DIVISION MANAGER

The County's Development Services Division Manager shall be responsible for the administration of this Ordinance, the issuance of licenses required by this Ordinance following approval of same by the Commissioners Court, and the enforcement of this Ordinance and the maintenance of proper records. The Development Services Division Manager may designate a person to perform a task hereunder under the supervision of the Development Services Division Manager.

SECTION 3.02 - RESPONSIBILITY OF OTHER OFFICIALS

Under this Ordinance, except as specifically stated otherwise, the Development Services Division Manager shall be responsible for all administrative decisions, determinations and duties arising under this Ordinance. The Development Services Division Manager may seek and secure the assistance of other officials of Collin County in making decisions and determinations and in performing the administrative duties contemplated by this Ordinance.

PART 4 - LICENSES

SECTION 4.01 - LICENSE REQUIRED

No person shall operate a junkyard or automotive wrecking and salvage yard within the unincorporated areas of Collin County without a valid and unsuspended license under this Ordinance authorizing such operation.

SECTION 4.02 - EXCEPTION

This Ordinance does not apply to the following:

- (a) A recycling business;
- (b) A junkyard or an automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality; or
- (c) A junkyard or an automotive wrecking and salvage yard in operation before June 1, 1987; however, any Expansion or Enlargement of an existing junkyard or an automotive wrecking and salvage yard or a Change of Ownership of an existing junkyard which occurs after the effective date of this Ordinance shall be subject to the provisions of this Ordinance.

SECTION 4.03 - APPLICATION AND APPROVAL PROCEDURE FOR LICENSE

The application for a license must be on a form prescribed by the Development Services Division Manager and shall include the following information:

- (a) The owner's name, a contact name, mailing address, email address and phone number;

- (b) A detailed description of the business, including its anticipated operating schedule and work hours, and its proximity to residence, other properties, and streets;
- (c) A plat or property map, drawn to scale, showing the boundaries of the property and the location of any building improvements, outdoor storage areas, parking areas, geographic features (i.e. creeks, rivers, etc.), landscaping, significant foliage and vegetation, the proposed screening/fencing, and the property's proximity to any residences and to public streets or highway right-of-way;
- (d) Photographs/drawings and a description of the screening/fencing, including the type of material to be used, its height, its total linear length, and its color;
- (e) Identification whether the application is for a new facility, an existing facility or a renewal of a prior license; and
- (f) Any other information that the Development Services Division Manager may deem necessary.

After the application is filed, the Development Services Division Manager shall review it to assure that all reviews or approvals required by other County regulations and requirements applicable to the junkyard or automotive wrecking and salvage yard have been met. The Development Services Division Manger shall notify the applicant if any deficiencies are noted. The Development Services Division Manager is not required to seek a final approval of the application from Commissioners Court until after the requirements referred to above have been met. If the Development Services Division Manager finds that the application is in order, the Development Services Division Manager shall present the application to the Commissioners Court for final approval.

SECTION 4.04 —NEW FACILITY LICENSE

- (a) A person will need a license for a new facility under this Ordinance for the following:
 - i) Any junkyard or automotive wrecking and salvage yard that begins business operations after the date of passage of this Ordinance;
 - ii) Any junkyard or automotive wrecking and salvage yard that has undergone an Expansion or Enlargement since renewing any prior license with the County for such activities;
 - iii) Any junkyard or automotive wrecking and salvage yard that has undergone a Change of Ownership; or
 - iv) All junkyards or automotive wrecking yards in which the premises or the building and improvements are thereon located are totally or partially destroyed from any cause, and such event either: 1) causes the temporary closure of the business; or 2) creates a continuing condition that violates the provisions of this Ordinance

pertaining to existing facilities; or 3) creates a condition in violation of the applicable County fire and building codes. However, notwithstanding the foregoing, a license for a New Facility shall not be required if such premises and improvements are restored to substantially the same condition as they were in immediately before destruction within three hundred sixty-five days (365) days of the event which caused the initial destruction and meet the requirements of this Ordinance pertaining to existing facilities and the requirements of applicable County fire and building codes. The owner may request one (1) one hundred and eighty (180) day extension to complete the restoration activities through the variance process as detailed in Request for Exemption, Section 4.07.

(b) A License for a new facility shall be valid for three (3) years.

(c) The Commissioners Court shall consider an application for a License for a new facility in the manner authorized by Texas Transportation Code, Section 396.041. A License for a New Facility may be approved and issued only after all of the requirements set forth in Part 6 of this Ordinance are satisfied.

(d) An applicant for a License for a new facility must meet the following requirements:

i) **SCREENING REQUIREMENTS** - A person who operates a junkyard or automotive wrecking and salvage yard shall screen the automotive wrecking and salvage yard with a solid barrier fence as required by Section 396.021 of the Texas Local Government Code. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name.

ii) **EXCEPTION TO SCREENING REQUIREMENTS** - The screening requirements do not apply to the following:

- a. an automotive wrecking and salvage yard as defined by and subject to Chapter 397 of the Texas Local Government Code;
- b. a junkyard as defined by Texas Local Government Code Section 391.001 and subject to Subchapter E, Chapter 391 of the Texas Local Government Code;
- c. A recycling business; or
- d. A junkyard or an automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality.

iii) **STACKING RESTRICTIONS** - A person may not accumulate or stack materials 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 and salvage yard used only for farm equipment.

iv) **LOCATION OF YARD**

- a. A junkyard or automotive wrecking and salvage yard may not be located within 50 feet of the right-of-way of a public street or state highway. The

distance shall be measured from the public street or road or state highway right-of-way that is closest to the junkyard or automotive wrecking and salvage yard and ending at the fence required by Texas Local Government Code section 396.021.

- b. A junkyard or automotive wrecking and salvage yard may not be located within the One Hundred Year (100-year) floodplain or floodway, as defined by the Federal Emergency Management Agency (FEMA).
- c. The location of the junkyard or automotive wrecking and salvage yard shall not be detrimental to the public health, safety or welfare.
- d. The location of the junkyard or automotive wrecking and salvage yard shall be in full compliance with all federal and state regulations, including the Storm Water Management Regulations promulgated by the United States Environmental Protection Association and shall be at least one thousand (1,000) feet from Waters of the United States as defined by 40 CFR 230.3(s) (“Clean Water Act”).

SECTION 4.05 - EXISTING FACILITY LICENSE

- (a) A person will need a License for an existing facility for all junkyards or automotive wrecking and salvage yards that began business operations after June 1, 1987 but prior to the date of passage of this Ordinance.
- (b) A License for an existing facility shall be valid for three (3) years.
- (c) The Commissioners Court may approve an application for a License for an existing facility after a determination by Commissioners Court that the following requirements are satisfied:
 - i) The location of the junkyard or automotive wrecking and salvage yard shall not be detrimental to the public health, safety or welfare;
 - ii) The junkyard or automotive wrecking and salvage yard satisfies the requirements set forth in section 4.04(d) of this Ordinance; and
 - iii) All reviews and/or approvals required by other Collin County regulations applicable to the development of the property have been met; and

SECTION 4.06 - LICENSE RENEWAL REQUIREMENTS

Upon receipt of an application for renewal of a License, the Development Services Division Manager may issue a renewal License to the Applicant, valid for three years after the termination of the prior License, if all requirements applicable to the issuance of an existing License continue to be met. In addition, an Applicant seeking a renewal License must swear and affirm by an affidavit the following facts:

- (a) The location in the renewal application is the same property as previously approved by the Commissioners Court for the License being renewed;
- (b) The existing License has not been revoked and is not suspended or expired on the date of the renewal application; and
- (c) The junkyard or automotive wrecking and salvage yard is in operation on the date of renewal application.

SECTION 4.07 - REQUEST FOR EXEMPTION

- (a) A person desiring an exemption from compliance with any provision of this Ordinance shall file a written request with the Development Services Division Manager stating the nature of the exemption requested, the reason that justifies the granting of an exemption and provide any additional information that the Development Services Division Manager requests.
- (b) Upon receipt of a valid request for an exemption from compliance with any provision of this Ordinance the Development Services Division Manager shall notify the Commissioners' Court of the request for exemption and thereafter the Commissioners' Court shall review the request and notify the person, in writing, of its decision. If the request is denied, the Commissioners' Court shall include the reason(s) for the denial in the notification.

PART 5 - ISSUANCE OF LICENSES AND POSTING REQUIREMENTS

SECTION 5.01 - ISSUANCE OF LICENSES

After approval of the Applicant's application by the Commissioners Court, the Development Services Division Manager shall issue licenses and renewals in accordance with this Ordinance upon receipt of the prescribed fee.

SECTION 5.02 - POSTING OF LICENSES

All license holders must post the license at the licensed facility in a manner visible to the public.

PART 6 - REVOCATION OR SUSPENSION OF LICENSE

SECTION 6.01 - SUSPENSION OF LICENSE - SCREENING REQUIREMENT

If a junkyard or automotive wrecking and salvage yard is not screened in compliance with all statutory requirements and this Ordinance, the Development Services Division Manager shall suspend the license for that junkyard or automotive wrecking and salvage yard. The suspension shall continue until the junkyard or automotive wrecking and salvage yard is screened in compliance with all statutory requirements and this Ordinance.

SECTION 6.02 - REVOCATION OF LICENSE

If the license of a junkyard or automotive wrecking and salvage yard has been suspended for more than 14 days and the operation of the junkyard or automotive wrecking and salvage yard has not been brought into compliance with these rules, the license previously granted for such a junkyard or automotive wrecking and salvage yard shall be automatically revoked.

SECTION 6.03 - NOTICE OF REVOCATION

If the license of a junkyard or automotive wrecking and salvage yard is suspended or revoked pursuant to this Ordinance, the Development Services Division Manager shall give written notice of that revocation to the license holder via certified mail, return receipt requested to the business address given by the license holder in its application. The notice will include the following:

- (a) Specific descriptions of the alleged violation(s) or noncompliance; and
- (b) 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 of the notice.

SECTION 6.04 - HEARING ON REVOCATION

The Applicant or current holder of a revoked license may have a hearing before the Commissioners' Court on the revocation, if a request for a hearing is made in writing to the County Judge within ten (10) days of receipt of notice of revocation. The hearing on the revocation shall be set by the County Judge as soon as practicable before the Commissioners Court. After the hearing, the Commissioners Court shall issue a decision either upholding the revocation or reinstating the license. If such a request for a hearing is not made in writing to the County Judge within ten (10) days of receipt of the notice of revocation, the Applicant shall not be entitled to seek reinstatement of the license, and further operation will require application and approval of a new license in the manner required by this Ordinance for licensing a New Facility.

PART 7 - ENFORCEMENT

SECTION 7.01 — ENFORCEMENT

- (a) A person commits an offense if the person operates a junkyard or automotive wrecking and salvage yard in violation of this Ordinance.
- (b) Pursuant to Texas Transportation Code Section 396.045 a violation is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500 and that each day a violation continues is a separate offense. The punishment is set by statute, and if such statute is amended, the amended punishment shall apply.
- (c) The County may seek injunctive relief to prohibit a violation or threatened violation of this Ordinance.

- (d) Nothing herein should be construed as limiting the County's authority to pursue other remedies and punishments that may be available under law for violations of this Ordinance.

SECTION 7.02 - VIOLATION OF CONDITIONS OF ORDINANCE

Any person having knowledge of a violation of this Ordinance may file a complaint with the Development Services Division Manager, who upon receipt of such complaint shall conduct an investigation into whether a violation has occurred.

PART 8 - FORMS AND RECORDS

Forms to be used in the administration of this Ordinance shall be promulgated by the Development Services Division Manager.

PART 9 — FEES

An application for issuance, renewal or modification of a license in accordance with the terms and conditions of this Ordinance requires a non-refundable fee of \$25 before issuance and effectiveness of the license. Each license or renewal fee received shall be deposited to the general fund in accordance with Texas Transportation Code § 396.041(d).

PART 10 — SEVERABILITY AND CONSTRUCTION

The provisions of this Ordinance are severable. If any word, phrase, clause, sentence, section, provision, or part of this Ordinance should be invalid or unconstitutional, it shall not affect the validity of the remaining portions and it is hereby declared to be the intent of the Commissioners Court that this Ordinance would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of this Ordinance might be interpreted in such a way as exceeding the County's authority, such provision should be construed to apply only to the extent authorized by law.

BE IT SO ORDERED.

PASSED AND APPROVED by a unanimous vote of the Commissioners Court of Collin County, Texas, this ____ day of _____, 2014.

KEITH SELF, County Judge

MARK REID, Commissioner, Precinct One

CHERYL WILLIAMS, Commissioner, Precinct Two

CHRIS HILL, Commissioner, Precinct Three

DUNCAN WEBB, Commissioner, Precinct Four

ATTEST:

BY: Stacey Kemp, County Clerk