

FORT BEND COUNTY

JUNKYARD AND AUTOMOTIVE WRECKING AND SALVAGE YARD ORDINANCE



FORT BEND COUNTY COMMISSIONERS COURT

COUNTY JUDGE

ROBERT E. HEBERT

COUNTY COMMISSIONERS

VINCENT MORALES JR., PRECINCT 1

JAMES "GRADY" PRESTAGE, PRECINCT 2

W. A. "ANDY" MEYERS, PRECINCT 3

JAMES PATTERSON, PRECINCT 4

DRAFT

FORT BEND COUNTY JUNKYARD AND AUTOMOTIVE WRECKING AND SALVAGE YARD ORDINANCE

On _____, 2017 the Commissioners Court of Fort Bend County, Texas, met in regular session with the following members present and participating to-wit:

- | | |
|----------------------|--------------------------|
| Robert Hebert | County Judge, Presiding |
| Vincent Morales, Jr. | Commissioner, Precinct 1 |
| Grady Prestage | Commissioner, Precinct 2 |
| W. A. "Andy" Meyers | Commissioner, Precinct 3 |
| James Patterson | 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 Fort Bend 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 Fort Bend County, Texas as follows:

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1. Definitions. In this Ordinance:

- 1.1. "Applicant" means any person who is preparing or has filed an application for a license pursuant to this Ordinance.
- 1.2. "Application" means the form, including any and all supporting documentation, required by the Fort Bend County Fire Marshal to obtain a license to operate an automotive wrecking and salvage yard, and/ or junkyard in Fort Bend County.
- 1.3. "Automotive wrecking and salvage yard" means any person or business that stores three 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.
- 1.4. "Change in ownership" means the sale or transfer of a majority of either the outstanding voting shares or 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, a bulk sale of the inventory if the business is a sole proprietorship, or the sale or transfer by an owner of the real property on which the automotive wrecking and salvage yard or junkyard is located.
- 1.5. "Commencement of Operations" means three (3) or more wrecked vehicles stored outdoors for the purpose of dismantling or wrecking to remove parts for sale or use in an automotive repair or rebuilding business by any person or business.
- 1.6. "Commissioners Court" means Fort Bend County Commissioners Court.
- 1.7. "County" means Fort Bend County or its authorized agents.
- 1.8. "County Attorney" means the Fort Bend County Attorney, including any Assistant Fort Bend County Attorney, or the Fort Bend County Attorney's authorized agents.
- 1.9. "Existing Facility" means a junkyard or automotive wrecking and salvage yard that began business operations after June 1, 1987 but prior to the date of passage of this Ordinance.
- 1.10. "Expansion" or "Enlargement" as used in this Ordinance mean 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.
- 1.11. "Fire Marshal" means the Fort Bend County Fire Marshal, including the Fort Bend County Fire Marshal's authorized agents.
- 1.12. "Interested party" means any person who may be affected by the issuance of a license pursuant to this Ordinance and would include not only owners in fee simple, life tenants, lessees for years, lien holders, easement holders, and residents of a proposed yard, but also any person with these interests in land situated within one thousand (1000) feet of a proposed yard.
- 1.13. "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, 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.
- 1.14. "Junkyard" means a business enterprise that owns and is operated to store, buy, or sell junk, all or part of which is kept outdoors until disposed of.
- 1.15. "License" shall apply to any license issued by Fort Bend County under this Ordinance, whether for an existing facility or new facility, or whether an initial license or a renewal license, except for those instances where the context requires otherwise.

- 1.16. "Order" means the Order Adopting Visual Aesthetic Standards for Screening Junkyards and Automotive Wrecking and Salvage Yards In the Unincorporated Area of Fort Bend County adopted by Fort Bend County Commissioners Court setting minimum screening requirements for junkyards and automotive wrecking and salvage yards in the unincorporated area of Fort Bend County.
- 1.17. "Person" means any natural person, trust, estate, partnership, limited partnership, association, company, or corporation.
- 1.18. "Proposed yard" means the land to be occupied by a junkyard or automotive wrecking and salvage yard if a license is granted pursuant to this Ordinance.
- 1.19. "Recycling business" means a business enterprise that is primarily engaged in the business of:
 - (a) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;
 - (b) using raw materials products of that kind in the production of new products; or
 - (c) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by (a) or (b) of this subsection.
- 1.20. "Right-of-way" means any public street however designated, dedicated, or acquired claimed or maintained by Fort Bend County for road and road drainage, which provides vehicular access to adjacent private or public properties.
- 1.21. "Roadway" means the portion of the improved surface of the County or public easement or right-of-way used for travel by vehicular traffic which is usually constructed of concrete, asphalt, gravel, or other material providing a hard surface.
- 1.22. "Wrecked vehicle" means a discarded, abandoned, junked, 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.

2. Establishment and General Provisions

2.1. Authority

- (a) This Ordinance is adopted by the Commissioners Court acting in its capacity as the governing body of Fort Bend County.
- (b) Fort Bend County adopts this Ordinance under the authority Chapter 396, Subchapter A, Texas Transportation Code, as amended.
- (c) The purpose of this Ordinance is to protect the public health, safety, and welfare by requiring junkyards and automotive wrecking and salvage yards to be licensed by Fort Bend County.
- (d) This Ordinance may be amended at any time by a majority vote of Commissioners Court.

2.2. Prior Orders.

- (a) The Order adopted by Commissioners Court regulating the visual aesthetic standards of junkyards and automotive wrecking and salvage yards is hereby adopted under this Ordinance and shall be incorporated into this Ordinance.

2.3. Area of Jurisdiction

- (a) This Ordinance shall apply to all of the areas of Fort Bend County except for the areas within the boundaries of the incorporated cities and towns of Fort Bend County.

- (b) This Ordinance shall also apply to those incorporated cities or towns or villages that have adopted this Ordinance and executed cooperative agreements with Fort Bend County for its enforcement.
- 2.4. Effective Date. This Ordinance shall become effective upon adoption by the Commissioners Court.
- 2.5. Compliance Dates. A person operating a junkyard or automotive wrecking and salvage yard must be in compliance with this Ordinance by the following dates:
 - (a) Visual Aesthetic Standards. December 1, 2017, unless a variance or exemption is approved by Commissioners Court.
 - (b) County License. All new or existing junkyards or automotive wrecking and salvage yards must obtain a county issued license by January 1, 2018.
- 2.6. Construction, Precedents, and Interpretation.
 - (a) This Ordinance shall be construed liberally to accomplish its purpose.
 - (b) The Commissioners Court shall resolve any question regarding any interpretation of this Ordinance.
 - (c) In the event of any conflict between this Ordinance and a State law, a rule adopted under a State law, or a Municipal Ordinance, the stricter of the two provisions prevails.
- 2.7. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Ordinance and the application thereof to other persons and circumstances shall not be affected.

3. Administrative Provisions

3.1. Exemptions.

- (a) This Ordinance do not apply to the following:
 - (i) A recycling business;
 - (ii) A junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city or town and that is subject to regulation in any manner by the city or town, unless the city or town has adopted this Ordinance; or
 - (iii) 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 which occurs after the effective date of this Ordinance shall be subject to the provisions of this Ordinance.

3.2. Request for Exemption.

- (a) A person desiring an exemption from compliance with any requirement of this Ordinance shall:
 - (i) File a written request with the Fire Marshal stating the nature of the exemption requested;
 - (ii) State the reason(s) that justifies granting the exemption; and
 - (iii) Provide any additional information requested by the Fire Marshal.
- (b) Upon receipt of a valid request:
 - (i) The Fire Marshal 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;
 - (ii) The Fire Marshal shall notify the Commissioners Court of the request for exemption.

- (c) 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 reasons for denial in the notice.

3.3. Notice Procedures.

- (a) In any notice of a hearing pursuant to Section 9 of this Ordinance, the Fire Marshal shall state the nature of the approval sought, the location for which approval is sought, the date, time, and place of the hearing, any additional information the Fire Marshal may consider necessary, and the right of interested parties to be heard on the questions of approval and conditions to be imposed.
- (b) At least ten (10) days prior to the date set for any hearing pursuant to Section 9 of this Ordinance, the Fire Marshal shall mail notice of the hearing by first class mail, postage prepaid, to the Applicant, to the owners of the proposed yard and to the schools, churches, and interested parties included in the lists of these groups attached to the application for the license pursuant to Section 7.
- (c) Any notice required to be given pursuant to this Ordinance, other than a notice of hearing pursuant to Section 9, shall be considered given by depositing same in the U.S. Mail, postage pre-paid, addressed in accordance with the information given by an Applicant.

3.4. Fees

- (a) To defray the reasonable costs of administering this Ordinance, the Fire Marshal shall require a fee of \$25.00 to be paid. Such fee shall be paid with filing of an application for a license and with the filing of an application for renewal of a license.
- (b) The license shall cover a period of one year from the day on which the license is approved. The fee for issuing a duplicate license for one which is lost, destroyed, or mutilated shall be \$5.00.

4. Duties and Powers

4.1. Fire Marshal.

- (a) The Fire Marshal is required by the Commissioners Court to perform the following duties:
 - (i) To administer this Ordinance and make appropriate recommendations to proper County authorities when instances of noncompliance with this Ordinance have been determined.
 - (ii) To make annual reports to the Commissioners Court on all actions taken concerning this Ordinance, and to provide the Commissioners Court any other information concerning this Ordinance and its implementation which may be requested by the Commissioners Court.
 - (iii) Assist the County Attorney in civil enforcement of this Ordinance.

4.2. County Attorney.

- (a) The County Attorney is responsible for the civil enforcement of this Ordinance.
- (b) The County Attorney shall provide annual reports regarding legal actions taken to enforce this Ordinance.

4.3. Applications and Fees.

- (a) The Fire Marshal shall accept all applications and collect all fees necessary to meet the requirements of this Ordinance.

(b) All application fees collected shall be deposited in the general fund of County.

5. Visual Aesthetic Standards

- 5.1. Screening. All junkyards and automotive wrecking and salvage yards, or combination thereof, shall be screened with a fence surrounding the entire business that effectively blocks the view of the junkyards and automotive wrecking and salvage yards from the motoring public at all times. The fencing must meet the following minimum standards:
- (a) Height. The entire fence must be at least eight (8) feet in height.
 - (b) Design. Such screening shall be so designed as to cause the junkyard or automotive wrecking and salvage yard area to be inconspicuous and pleasing to the motoring public.
 - (c) Fencing Material. The fencing shall be constructed of wood, masonry, corrugated sheet metal, chain link, or a combination of these materials and must be painted a single earth tone color.
 - (i) A chain link fence must be galvanized and have wood, vinyl, or metal slats or strips of a single earth tone color that run through all links of the fence. A properly constructed and maintained chain link fence with slats or strips complies with this Section 5.3.
 - (d) Signs. The fence may not have any signs appear on its surface, other than a sign indicating the business name.
 - (e) Location. The fence must be located outside the right-of-way in such manner as not to interfere in any way with traffic along any highway or roadway.
- 5.2. Stacking Restrictions. A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking and salvage yard higher than eight (8) 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.
- 5.3. Exemptions. A business subject to a screening requirement under Subchapter E of Chapter 391, Chapter 396, or Chapter 397 of the Texas Transportation Code, that was in compliance with that screening requirement on August 26, 1991, shall be exempt from a screening requirement adopted under the Order.
- 5.4. Inspections. The operator of the junkyard or automotive wrecking and salvage yard, or combination thereof, shall allow access to the Fire Marshal for on-site inspections of screening requirements because of a complaint, or routine inspections to be conducted during reasonable business hours.
- 5.5. Time For Compliance. A business in operation as of the effective date of the Order, that is not otherwise in compliance with this Section 5, shall have until December 1, 2017 to comply with screening requirements specified by the Order and this Ordinance.
- 5.6. Variance. A business may request a variance or exemption from the Visual Aesthetic Standards by submitting the request to the Fire Marshal. The Fire Marshal shall review the request and determine whether a variance is warranted. The Fire Marshal shall submit a request for variance to Commissioners Court for approval or denial.

6. Requirements for Operations

- 6.1. Commencement of Operation.

- (a) A person shall not operate a junkyard or automotive wrecking and salvage yard within Fort Bend County, unless that person has a valid, subsisting license obtained pursuant to this Ordinance.
- 6.2. Expansion, Enlargement, or Change in Location of Operation.
- (a) A person shall not expand or enlarge the land area occupied by the operations, or change the location of operations unless that person has a valid, subsisting license for that increase in land area or change in location obtained pursuant to this Ordinance.
- 6.3. Transfer of License.
- (a) A person shall give notice stating the name, mailing address, residential street address, and business address of all transferees and any change in the name of the operation to the Fire Marshal before a person may transfer a license to another person.
 - (b) A person shall not transfer a license from one location to another without the prior approval of the Commissioners Court after notice and public hearing in compliance with Section 9 of this Ordinance.
 - (c) Any license transferred from one location to another location without such prior approval of the Commissioners Court is no longer a valid license as of the date of transfer.
- 6.4. Compliance with Conditions. A person granted a license shall comply with all conditions placed on the location of the junkyard or automotive wrecking and salvage yard by the Commissioners Court pursuant to Section 9.3 of this Ordinance.

7. License Application Procedure

- 7.1. New License. A junkyard or automotive wrecking and salvage yard seeking or operating under a license for a New Facility.
- (a) Applications for licenses to operate junkyards, automotive wrecking and salvage yards, or a combination thereof, or expand or change locations shall be made in writing to the Fire Marshal on a form prescribed by the Fire Marshal and shall, along with such other information the Fire Marshal may require, contain the following information:
 - (i) the name, mailing address, residential street address, and business street address of the Applicant;
 - (ii) the name of the proposed operation;
 - (iii) the street address of the proposed yard and the page and volume number of the Real Property Records of Fort Bend County, Texas, where the most recent deed to the property on which the proposed yard will be located was recorded;
 - (iv) the exact legal description of the proposed yard;
 - (v) if the Applicant is a partnership, the name, mailing address, residential street address, and business street address for each member of the partnership;
 - (vi) if the Applicant is a corporation, the name, mailing address, residential street address, and business street address of each officer and director of the corporation and the name and address for service of process on the registered agent of the corporation; and
 - (vii) the names and mailing address of all schools, churches and interested parties and all other persons that the Applicant knows, or reasonably should know, want notice of the hearing on the application for the license.
 - (b) Supporting Documents.

- (i) The Applicant shall attach the following documents to its application:
 - (A) if an assumed name is used, a date-stamped copy of the Certificate of Assumed Name;
 - (B) if the Applicant is a general partnership, a copy of the fully executed partnership agreement;
 - (C) if the Applicant is a limited partnership, a date-stamped copy of the Certificate of Limited Partnership;
 - (D) if the Applicant is a corporation, a date-stamped copy of the Articles of Incorporation filed with the Secretary of State and a certified copy of the corporate resolution authorizing the corporation to file an application pursuant to this Ordinance and designating the officer authorized to execute the application; and
 - (E) if the Applicant is not the owner in fee simple of the proposed yard, a properly executed power of attorney or other written evidence of the agency agreement between the Applicant and the owner.
- (c) Acknowledgements.
 - (i) The application shall contain the following statements:
 - (A) "All of the information contained in this application is true and correct to the best of the Applicant's knowledge and belief."
 - (B) "Applicant acknowledges that the license applied for shall be subject to all provisions of the codes and ordinances of Fort Bend County relating to junkyards and automotive wrecking and salvage yards and shall be subject to all provisions of the codes and statutes of the State of Texas."

7.2. Renewal License.

- (a) Applications for renewal licenses shall be made in writing to the Fire Marshal on a form prescribed by the Fire Marshal, and shall, along with such other information as the Fire Marshal may require, contain the following information:
 - (i) the name, mailing address, residential street address, and business street address of the Applicant;
 - (ii) the name of the operation;
 - (iii) the street address of the proposed yard and the page and volume number of the Real Property Records of Fort Bend County, Texas where the most recent deed to the property on which the proposed yard will be located was recorded;
 - (iv) the exact legal description of the proposed yard;
 - (v) if the Applicant is a partnership, the name, mailing address, residential street address, and business street address for each member of the partnership; and
 - (vi) if the Applicant is a corporation, the name, mailing address, residential street address, and business street address of each officer and director of the corporation and the name and address for service of process on the registered agent of the corporation.
- (b) Supporting Documents. Unless the Applicant has attached the following documents to a prior application and there have been no amendments or changes to the documents since attached to the prior application, the Applicant shall attach the following documents to its application:

- (i) If an assumed name is used, a date-stamped copy of the Certificate of Assumed Name;
 - (ii) If the Applicant is a general partnership, a copy of the fully executed partnership agreement;
 - (iii) if the Applicant is a limited partnership, a date-stamped copy of the Certificate of Limited Partnership;
 - (iv) if the Applicant is a corporation, a date-stamped copy of the Articles of Incorporation filed with the Secretary of State and a certified copy of the corporate resolution authorizing the corporation to file an application pursuant to this Ordinance and designating the officer authorized to execute the application; and
 - (v) if the Applicant is not the owner in fee simple of the proposed yard, a properly executed power of attorney or other written evidence of the agency agreement between the Applicant and the owner.
- (c) Acknowledgements.
- (i) The application shall contain the following statements:
 - (A) "The location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application."
 - (B) "The license has never been revoked and is not suspended or expired on the date of application."
 - (C) "The junkyard or automotive wrecking and salvage yards is in operation on the date of application for renewal."
 - (D) "All of the information contained in this application is true and correct to the best of the Applicant's knowledge and belief."
 - (E) "Applicant acknowledges that the license applied for shall be subject to all provisions of the codes and ordinances of Fort Bend County relating to junkyards and automotive wrecking and salvage yards and shall be subject to all provisions of the codes and statutes of the State of Texas."

7.3. Existing Facility.

- (a) A License for Existing Facility is required.
- (b) A License for Existing Facility shall be for one (1) year.
- (c) The Commissioners Court may approve an application for a License for 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 location of the junkyard or automotive wrecking and salvage yard satisfies the location requirements set forth in this Ordinance;
 - (iii) All reviews and/or approvals required by other Fort Bend County regulations applicable to the development of the property have been met;
 - (iv) The Existing Facility is in compliance with all applicable State statutory requirements; and
 - (v) The Existing Facility is in compliance with all applicable screening requirements adopted under the Order and this Ordinance.

7.4. Sworn Signature Required. Applications for new licenses, renewal licenses, and existing facility licenses shall be signed and sworn to by the Applicant (if the Applicant is a partnership, by a general partner on behalf of the partnership and, if the Applicant is a corporation, by the officer of the corporation designated to execute the application on behalf of the corporation) before a notary public or other official authorized to administer oaths.

8. Issuance of Licenses

8.1. Initial Licenses. Initial Licenses may be issued by the Fire Marshal upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the junkyard or automotive wrecking and salvage yard.

8.2. Licenses for Expansion, Enlargement, or Change of Location of Operations. Licenses for an expansion, enlargement, or changes in location of operations may be issued by the Fire Marshal upon receipt of the prescribed fee and a completed application only if the Commissioners Court has approved the location of the additional area to be used for the increase in land area or the new location of the junkyard or automotive wrecking and salvage yard.

8.3. Issuance of Licenses. Under the conditions established in this Ordinance, the Fire Marshal shall issue licenses to all Applicants whose applications have been approved by the Commissioners Court in compliance with Section 9 of this Ordinance.

(a) All licenses shall include:

- (i) Certification of the Fire Marshal that the license has been approved by the Commissioners Court;
- (ii) Date of approval; and
- (iii) Signature of the Fire Marshal.

(b) All licenses must be prominently posted at the location of operations.

8.4. Annual Renewal.

(a) Initial Licenses. After the initial license has been issued by the County, the Fire Marshal shall renew the license within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that:

- (i) The location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the initial application;
- (ii) The license has never been revoked and is not suspended or expired on the date of application;
- (iii) Compliance with the Visual Aesthetic Standards has been continuously maintained and is in compliance throughout the renewal application review;
- (iv) The junkyard or automotive wrecking and salvage yard has maintained compliance with all State statutory requirements; and
- (v) The junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

(b) Licenses for Expansion, Enlargement, or Change of Location of Operations. After the license for increase in land area or change of location has been issued by the Fire Marshal, the Fire Marshal shall renew the license within thirty (30) days after receipt of the prescribed fee and a completed renewal application, provided that:

- (i) The location in the renewal application is the same land area and geographic location as that approved by the Commissioners Court in the application for increase in land area or a change of location;
- (ii) The license has never been revoked and is not suspended or expired on the date of application;
- (iii) Compliance with the Visual Aesthetic Standards has been continuously maintained and is in compliance throughout the renewal application review;
- (iv) The junkyard or automotive wrecking and salvage yard has maintained compliance with all State statutory requirements; and
- (v) The junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

9. Procedure for Commissioners Court Approval

9.1. Public Hearing.

- (a) Prior to approval of any application for a license pursuant to this Ordinance, the Commissioners Court shall hold a public hearing on the question of approval of the application and conditions to be imposed on the location.
- (b) At this public hearing, interested parties shall have the right to be heard on the question of approval and conditions to be imposed.
- (c) The public hearing shall be held within forty-five (45) days of receipt of an application in compliance with this Ordinance.

9.2. Notice of Hearing. The County shall give notice of the hearing on the application as prescribed in Section 4.

9.3. Criteria for Approval.

- (a) Location. The Commissioners Court may deny approval of any application for any license sought pursuant to this Ordinance for the following reasons:
 - (i) The location of the proposed yard would be detrimental to the public health, safety, or welfare;
 - (ii) The location of the proposed yard would create a hazard to the environment;
 - (iii) The location of the nearest boundary of the proposed yard would be within three hundred (300) feet of the nearest property line of property on which there is a church, a school, a park, a hospital, a nursing home; or a residence (single family home, duplex, apartment, townhouse, or mobile home), or the nearest boundary of a residential subdivision for which the County has approved a surveyor's plat;
 - (iv) The location of the proposed yard would be incompatible with the surrounding development;
 - (v) The location of the proposed yard would be detrimental to the economic welfare of Fort Bend County;
 - (vi) 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");
 - (vii) The location of the proposed yard would be within the one hundred (100) year flood plain; or
 - (viii) The person has not complied with Section 7 of this Ordinance.

(b) Exceptions.

- (i) The location of a junkyard or automotive wrecking and salvage yard whose Commencement of Operations began prior to September 1, 2015, shall not be located within fifty (50) feet of the right-of-way of a public street, state highway, or residence.
- (ii) The location of a junkyard or automotive wrecking and salvage yard whose Commencement of Operations began after September 1, 2015 and prior to the effective date of this Ordinance, shall not be located within fifty (50) feet of the right-of-way of a public street, state highway, or the nearest property line of a residence.

9.4. Conditions on Approval. In granting approval of any application for a license to establish or expand or change location of any junkyard or automotive wrecking and salvage yard within Fort Bend County, the Commissioners Court may impose conditions on the location at which a junkyard or automotive wrecking and salvage yard may operate.

9.5. Time for Approval. The Commissioners Court shall decide whether to grant or deny approval of an application within sixty (60) days of the public hearing on that application and, if this decision is not made within (60) days, the application shall be deemed to have been approved by the Commissioners Court.

10. Suspension and Revocation of License

10.1. Suspension of License.

- (a) If a junkyard or automotive wrecking and salvage yard is not screened in compliance with the Order or this Ordinance, the Fire Marshal 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.
- (b) If the Applicant has provided any information in the application which is not true and correct, then the license may be revoked by the Fire Marshal and, if suspended or revoked, no valid or subsisting license shall exist for that junkyard or automotive wrecking and salvage yard.

10.2. Revocation of License. If the license of a junkyard or automotive wrecking and salvage yard has been suspended for more than fourteen (14) days and the operation of the junkyard automotive wrecking and salvage yards has not been brought into compliance with the applicable section, the license shall be revoked automatically, and no valid or subsisting license shall exist for that junkyard or automotive wrecking and salvage yard.

10.3. Notice of Revocation. If the license of a junkyard or automotive wrecking and salvage yard is revoked pursuant to this Ordinance, the Fire Marshal 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.

- 10.4. Hearing on Revocation. The Applicant or current holder of a revoked license may request a hearing by the Commissioners Court on the revocation of the license if a request for hearing is made in writing to the Fire Marshal within ten (10) days of receipt of the notice of revocation. If such a request for a hearing is not made in writing to the Fire Marshal 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. Upon receipt of a request for a revocation hearing, the Fire Marshal shall notify the County Judge, and the County Judge shall set the hearing on revocation as soon as practicable before the Commissioners Court.
- (a) The Fire Marshal shall notify the requesting party of the date and time of the hearing.
 - (b) At the hearing, the licensee may be represented at their own expense, and shall be given the opportunity to present evidence.
 - (c) After the hearing, the Commissioners Court shall issue a decision either upholding the revocation or reinstating the license.

11. Offenses and Enforcement

- 11.1. Offenses. A person commits an offense if the person operates a junkyard or automotive wrecking and salvage yard in violation of this Ordinance.
- 11.2. Criminal Enforcement.
- (a) A violation of this Ordinance is a Class C 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.
- 11.3. Civil Enforcement.
- (a) A junkyard or automotive wrecking and salvage yard which is not screened as required by Section 5 may have its license suspended or revoked.
 - (b) Violations of Visual Aesthetic Standards: Failure to comply with Section 5 of this Ordinance may result in the following civil penalties:
 - (i) A penalty not to exceed \$50 each day for the first 10 days of the violation;
 - (ii) A penalty not to exceed \$100 each day for days 11 - 20;
 - (iii) A penalty not to exceed \$250 each day for days 21 - 30; and
 - (iv) A penalty not to exceed \$1,000 for each day after 30 days.
 - (c) The County Attorney may file a civil action to recover any civil penalty from a business that violates a visual aesthetic standard established under this Order. In determining the amount of the penalty, the court shall consider the seriousness of the violation.
 - (d) The venue for a civil action is in the county in which any part of the junkyard or automotive wrecking and salvage yard is located.
- 11.4. Injunction. A person is entitled to an injunction to prohibit a violation or threatened violation of this Ordinance.
- 11.5. Remedies Not Exclusive. Nothing herein should be construed as limiting authority to pursue other remedies and punishments that may be available under law for violations of this Ordinance by a person subject thereto.