

Automotive Wrecking and Salvage Yard Regulation

AN ORDINANCE ADOPTING THE TEXAS TRANSPORTATION CODE 396; PROVIDING FOR SCREENING OF COVERED BUSINESS; PROVIDING FOR LICENSING; PROVIDING FOR REQUIREMENT FOR LICENSING; PROVIDING FOR SECURITY OF AUTOMOTIVE LIQUIDS AND TIRES; PROVIDING FOR NOTICES AND HEARINGS; PROVIDING FOR REVOCATION AND RENEWAL OF LICENSING; PROVIDING A SAVINGS CLAUSE:

BE IT ORDAINED BY THE COUNTY OF RAINS, TEXAS.

SECTION 1. ADOPTED:

There is hereby adopted the Texas Transportation Codes 396, as amended.

SECTION 2. DEFINITIONS:

(A) "Automotive wrecking and salvage yard" means any person or business that 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.

(B) "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 wrecked vehicles.)

(C) "Junkyard" means an enterprise that owns and is operated to store, buy or sell junk, all or part of which is kept outdoors until disposal.

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

- (1) Converting metal or any other materials into raw material products, having prepared grades and having an existing or potential economic value;
- (2) Using raw material products of that kind in the production of new products; or
- (3) Obtaining or storing metal or other materials for a purpose described by Paragraph (A) or (B) of this subdivision.

(E) "Wrecked vehicle" means a discarded, abandoned, junked, wrecked or worn-out automotive vehicle, that is not licensed or in a condition to be lawfully operated on a public road.

(F) "Road", refers to any public roadways, to include all county roads.

(G) "Covered Business" means automobile wrecking and salvage yard or junkyard.

(H) "To begin operation," means the date a tax number is obtained by the covered business; for storage yards that do not use a tax number, the date the property is rendered to the proper Rains County taxing authority; or, the use of the property becomes evident to the Commissioners Court.

SECTION 3: EXEMPTIONS

- (A) The screening requirement established by Section 4 of this Act does not apply to:
- (1) a recycling business;
 - (2) a junkyard or an automotive wrecking and salvage yard that is located entirely within a municipality and that is subject to regulation in any manner by the municipality.
- (B) The county Licensing provisions of Section 5 of this Act do not apply to:
- (1) a recycling business;
 - (2) a junkyard or an automotive wrecking and salvage yard that is located entirely within a municipality and that is subject to regulation in any manner by the municipality.

SECTION 4: SCREENING REQUIREMENT

A person who operates a junkyard or an automotive wrecking and salvage yard in this state shall screen it by natural objects, plantings, fences or other appropriate means so that the screen is at least eight (8) feet in height, alongside that portion of the junkyard or automotive wrecking and salvage yard that faces a road or a family residence. Additionally, the screening must be such that no part of the junkyard or automobile wrecking and salvage yard may be visible from any public road, business, or residence. The structure must be erect and plumb.

SECTION 5: COUNTY LICENSURE

(A) To protect the public health, safety, or welfare, the Commissioners' Court of Rains County is adopting this ordinance and requiring that a junkyard or automobile wrecking and salvage yard be licensed by the County. The following conditions must be met in order to obtain a license:

- (1) Any person desiring a license shall make a written application, which shall be sworn to, on forms provided by the County. Four (4), 8 X 10 color photographs, showing the entire property, covered by the business, from a Northern, Southern, Eastern and Western view. Fee and application is to be filed with the County Clerk's Office.
- (2) Submit a plat showing compliance with the location requirements from a registered surveyor.
- (3) Pay a fee of \$25.00 for the issuance or renewal of the license
- (4) Be no closer than 50 feet to any road, subdivision, residence, business, or waterway under the authority of the Texas Natural Resource Commission.
- (5) Agree to allow the Health Department and Environmental Enforcement Department to enter said premises for on site inspections at any reasonable time. Said inspections will be unannounced.
- (6) Upon receipt of said application, the County Clerk shall post the application in the county courthouse. It must be posted for a period of fourteen (14) days prior to any approval action by Commissioners' Court.
- (7) An operator may not discharge automotive fluids onto the ground. Automotive fluids include, but are not restricted to: fuel, lubricating oils and greases, hydraulic fluids, antifreeze/coolant compounds, brake fluids, liquid tire leakage repair compounds or storage battery acids.

- (8) Fluids generated by the application of any cleaning solution or water used for cleaning automotive parts or assemblies, may not be discharged onto the ground. This includes, but is not restricted to; hosing, washing, pressure washing, steam cleaning or solvent cleaning.
- (9) Storage batteries may not be stored on the ground, but must be elevated off the ground and sheltered from precipitation to prevent ground and/or water pollution through run-off. Storage batteries with broken or leaking cases must be stored in a containment vessel capable of retaining all the fluid in the battery. This containment vessel must be constructed of a material capable of containing the battery fluid without corroding or decomposing.
- (10) Un-mounted tires must be sheltered from precipitation to prevent water retention, creating a mosquito-breeding environment.

SECTION 6. REVOCATION AND RENEWAL

(A) Commissioners Court may revoke or suspend any license if:

- (1) Any provisions for screening are violated;
- (2) The said junkyard or automotive wrecking and salvage yard fails to permit inspections by the Health Department or the Environmental Enforcement Officer;
- (3) The operator fails to remedy any violation of the Health Department or Environmental Enforcement Department rules and regulations.
- (4) Any requirements have not been met or the contents of the application have been falsified.

(B) Renewal of said license may be denied if:

- (1) Any provisions for screening are violated;
- (2) The said junkyard or automotive wrecking and salvage yard fails to permit inspections by the Health Department and Environmental Enforcement Officer.
- (3) The owner fails to remedy any violations of the Health Department or Environmental Enforcement Department rules and regulations
- (4) it is determined that any requirements have not been met or the contents of the application have been falsified

(C) Whenever a license is suspended or revoked, written notice shall be given to the permit holder, the person in charge or any employee or agent of the covered business and such notice shall state:

- (1) Specific conditions of the alleged violation ~
- (2) The date and time of the hearing to be held concerning the suspension and revocation.
- (3) That the licensee may appear in person, be represented by counsel, present testimony and cross-examine all witnesses; such hearing shall be held no later than 30 days after the date of the revocation or suspension.

(E) Said license may be renewed annually if the conditions for the initial licensing are met. As to Section (3), if an affidavit is submitted testifying to the fact that the covered business has not expanded its location and was in compliance with Section 5 (A), when the original license was obtained, no new plat will be required.

SECTION 7. INJUNCTION

Any person is entitled to injunctive relief to prevent a violation or threatened violation of this ordinance as provided for in Texas Transportation Code 396.002

SECTION 8. CRIMINAL PENALTY

A person, who knowingly violates this ordinance, commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$500. Each day a violation continues is a separate offense. After 90 days, a notice of attachment may be sent and the property seized. Said property will be sold and revenue from the sale will be used for site clean up.

SECTION 9. EFFECTIVE DATE

This ordinance takes effect immediately upon passage by the Rains County Commissioners Court. All covered businesses shall make application within 30 days of the passage of the Ordinance. Thereafter, all new, covered operations shall make application within thirty (30) days of their existence in the County.

SECTION 10. PROVIDING A SAVINGS CLAUSE

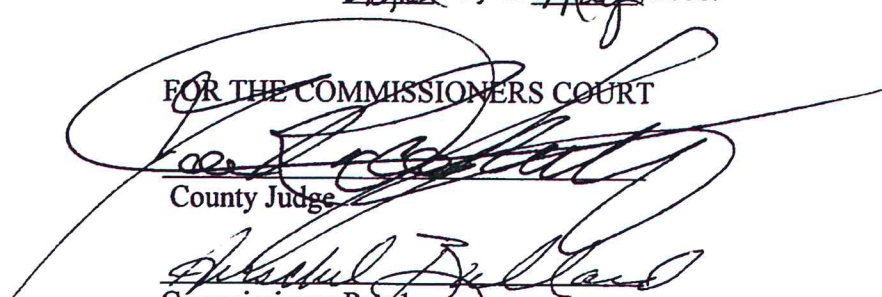
If any section, subsection, word, sentence or phrase of this ordinance is declared to be invalid, it shall not affect the validity nor intent of this ordinance.

SECTION 11. PUBLIC HEARING

Before adopting this ordinance the provisions for public notice and a public hearing as outlined in the Transportation Code 396.042 and 396.043 will be strictly adhered to by the Commissioners' Court.

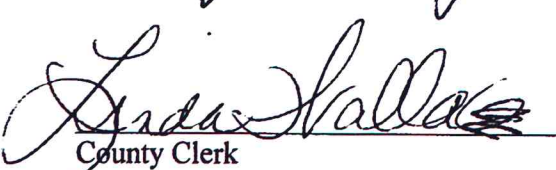
PASSED AND APPROVED by the Commissioners Court of Rains County, Texas,
on this 22nd day of May, 2008.

FOR THE COMMISSIONERS COURT

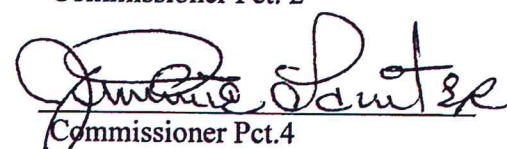

County Judge


Commissioner Pct. 1


Commissioner Pct. 3


County Clerk


Commissioner Pct. 2


Commissioner Pct. 4