

THE COUNTY OF BRAZORIA

ORDER ESTABLISHING RULES

FOR JUNKYARDS, AUTOMOTIVE WRECKING

AND SALVAGE YARDS

THE COMMISSIONERS' COURT

COUNTY JUDGE

E.J. KING

COUNTY COMMISSIONERS

DUDE PAYNE, Precinct 1

MATT SEBESTA, Precinct 2

JACK HARRIS, Precinct 3

MARY RUTH RHODENBAUGH, Precinct 4

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ARTICLE 1 ESTABLISHMENT AND GENERAL PROVISIONS

Authority

These rules are adopted by the Commissioners Court acting in its capacity as the governing body of Brazoria County. Brazoria County adopts these rules under the authority of Texas Transportation Code, Chapter 396.

Purpose

The purpose of these rules is to protect the public health, safety, and welfare by requiring junkyards and automotive wrecking and salvage yards to be licensed by Brazoria County.

Area of Jurisdiction

These rules shall apply to all of the areas of Brazoria County except for the areas within the boundaries of the incorporated cities, towns and villages of Brazoria County.

These rules shall also apply to those incorporated cities or towns or villages that have adopted these rules and executed cooperative agreements with Brazoria County for their enforcement.

Effective Date

These rules shall become effective upon adoption by the Commissioners Court.

Construction, Precedents, and Interpretation

These rules shall be construed liberally to accomplish their purpose. The Commissioners Court shall resolve any question regarding any interpretation of these rules. In the event of any conflict between the rules and a State law, a rule adopted under a State law, or a municipal ordinance, the stricter of the two provisions prevails. The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include the other number as required.

Severability

If any provision of these rules or the application thereof to any person or circumstances is held invalid, the validity of the remainder of these rules and the application thereof to other persons and circumstances shall not be affected.

ARTICLE 2 DEFINITIONS

APPLICANT - any person who is preparing or has filed an application for a license pursuant to these rules.

AUTOMOBILE GRAVEYARD – an establishment that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

AUTOMOTIVE WRECKING AND SALVAGE YARD - 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.

COMMISSIONERS COURT - Brazoria County Commissioners Court.

COMPLETED RENEWAL APPLICATION - an application that contains all of the information and documents required by Article 5 of these rules.

COUNTY - Brazoria County Government or its authorized agents.

DIRECTOR - the Director of the Brazoria County Environmental Health Department or his authorized agents.

INTERESTED PARTY - any person who may be affected by the issuance of a license pursuant to these rules and would include not only owners in fee simple, life tenants, lessees for years, lienholders, 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.

JUNK - copper, brass, iron, steel, ferrous or non-ferrous material, rope, rags, batteries, tires, paper, trash, rubber, debris, waste, 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.

JUNKED VEHICLE – a vehicle that is self-propelled and:

1. does not have lawfully attached to it:
 - a. an unexpired license plate; or
 - b. a valid motor vehicle inspection certificate; and
2. is:
 - a. wrecked, dismantled or partially dismantled, or discarded; or
 - b. inoperable and has remained inoperable for more than:
 - i. 72 consecutive hours, if the vehicle is on public property; or
 - ii. 30 consecutive days, if the vehicle is on private property.

JUNKYARD – an automobile graveyard, a business that owns junk and is operated to store, buy, or sell junk, or processing scrap metal, all or part of which is kept outdoors until disposed of.

MOTOR VEHICLE –

- a. any motor driven or propelled vehicle required to be registered under the laws of this state;
- b. a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;
- c. a house trailer;
- d. an all-terrain vehicle, as defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or
- e. a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course.

PERSON - any natural person, trust, estate, partnership, limited partnership, association, company or corporation.

PROPOSED YARD – the land to be occupied by a junkyard or automotive wrecking and salvage yard if a license is granted pursuant to these rules.

RECYCLING BUSINESS –a business primarily engaged in the business of:

- a. converting metal or other material into raw material products have prepared grades and an existing or potential economic value;
- b. using raw material products in the production of new products; or
- c. obtaining or storing metal or other materials for a purpose described in “a” or “b” above.

WRECKED VEHICLE – a discarded, junked, or worn-out motor vehicle, including an automobile, truck, tractor-trailer, or bus, that is not in a condition to be lawfully operated on a public road.

ARTICLE 3 DUTIES AND POWERS

The Director is required by the Commissioners Court to perform the following:

- a. To enforce these rules and to make appropriate recommendations to proper County authorities when instances of noncompliance with these rules has been determined.
- b. To make annual reports to the Commissioners Court on all actions, including legal actions taken concerning these rules and to provide the Commissioners Court any other information concerning these rules and their implementation which may be requested by the Commissioners Court.

ARTICLE 4 ADMINISTRATIVE PROVISIONS

SECTION A. APPLICATIONS AND FEES

The Director shall accept all applications and collect all fees necessary to meet the requirements of these rules. All fees collected shall be deposited in the general fund of County

SECTION B. EXEMPTION FROM COMPLIANCE WITH THESE RULES

The screening requirement of these rules does not apply to the following:

- a. a recycling business;
- b. a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city, town or village and that is subject to regulation in any manner by the city, town, or village unless the city, town or village has adopted these rules; or

The county licensing provisions of Article 5 of this Act do not apply to:

- a. a recycling business;
- b. 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 these rules; or

- c. a junkyard or an automotive wrecking and salvage yard that legally began operation before June 1, 1987.

Request for Exemption

A person desiring an exemption from compliance with any requirement of these rules shall do as follows:

- a. File a written request with the Director stating the nature of the exemption requested;
- b. The reason that justifies granting the exemption; and
- c. Any additional information that the Commissioners Court requests.

The Director shall notify the Commissioners Court of all requests for exemption within 14 days of the date on which the request is filed.

Within 45 days after the filing of a request, the Commissioners Court shall review the request and notify the person, in writing, of their decision. If the request is denied, the Commissioner's Court shall include the reasons for denial in the notice. If the Commissioners Court does not give notice of their decision within 45 days of receipt of the request, the exemption is automatically granted.

SECTION C. FEES

To defray the reasonable costs of administering these rules, the Director shall require a fee of \$25.00 to be paid. Such fee shall be paid with the filing of an application for a license and with the filing of an application for renewal of a license. 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.

ARTICLE 5 LICENSE APPLICATION PROCEDURE

SECTION A. INITIAL LICENSE

Application for licenses to operate junkyards or automotive wrecking and salvage yards or expand or change locations shall be made in writing to the Director on a form prescribed by him and shall, along with such other information he may require, contain the following Information:

- a. the name, mailing address, residential street address, and business street address of the applicant;
- b. the name of the proposed operation;
- c. the street address of the proposed yard and the page and volume number of the Real Property Records of Brazoria County, Texas where the most recent deed to the property on which the proposed yard will be located was recorded;
- d. the exact legal description of the proposed yard;
- e. if the applicant is a partnership, the name, mailing address, residential street address, and business street address for each member of the partnership;
- f. 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

Supporting Documents Requirement for License

The applicant shall attach the following documents to its application:

- a. if an assumed name (d/b/a) 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 these rules 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.

Interested Parties

The party filing the application for license to operate junkyards or automotive wrecking and salvage yards shall provide the names and mailing addresses of all schools, churches, and interested parties as defined herein, and all other persons that the applicant knows, or reasonably should know, have an interest in receiving notice of the hearing on the application for the license.

Acknowledgment Required for License

The application shall contain the following statements: "Applicant grants County the authority to place notices pursuant to Article 3.02(c) on the site of the proposed yard. All of the information contained in said application is true and correct to the best of the applicant's knowledge and belief, applicant acknowledges that the license applied for shall be subject to all provisions of the codes and ordinances of Brazoria 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."

SECTION B. RENEWAL APPLICATION

Applications for renewal licenses shall be made in writing to the Director on a form prescribed by him and shall, along with, such other information as he may require, contain the following information:

- a. the name, mailing address, residential street address, and business street address of the applicant;
- b. the name of the operation;
- c. the street address of the yard and the page and volume number of the Real Property Records of Brazoria County, Texas where the most recent deed to the property on which the yard is located was recorded;
- d. the exact legal description of the yard;
- e. if the applicant is a partnership, the name, mailing address, residential street address, and business street address for each member of the partnership; and
- f. 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.

Supporting Documents Required for Renewal Application

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:

- a. if an assumed name (d/b/a) 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 these rules 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.

Acknowledgment Required for Renewal License

The application shall contain the following statements:

“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.”

“The license has never been revoked and is not suspended or expired on the date of application.”

“The junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.”

“All of the information contained in this application is true and correct to the best of the applicant’s knowledge and belief.”

“Applicant acknowledges that the license applied for shall be subject to all provisions of the codes and ordinances of Brazoria 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.”

SECTION C. SWORN SIGNATURE REQUIRED

Application for license and renewal license 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.

ARTICLE 6
PROCEDURE FOR COMMISSIONERS COURT APPROVAL

SECTION A. PUBLIC HEARING

Prior to approval of any application for a license pursuant to these rules the Commissioners Court shall hold a public hearing on the question of approval of the application and conditions to be imposed on the location. At this public hearing, interested parties shall have the right to be heard on the question of approval and conditions to be imposed. The public hearing shall be held within 45 days of receipt of an application in compliance with Article 5 of these Rules.

SECTION B. NOTICE OF HEARING

In any notice of hearing, the Director shall state:

- a. the nature of the approval sought;
- b. the location for which approval is sought,
- c. the date, the time and place of the hearing,
- d. any additional information the Director may consider necessary, and
- e. the rights of interested parties to be heard on the questions of approval and conditions to be imposed.

At least ten days prior to the date set for any hearing, the Director 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 Article 5, Section A, "Interested Parties" of these rules.

The Director shall post a notice of hearing in compliance with the Open Meetings Act, Texas Government Code, Chapter 551 on the site of the proposed yard or expansion or change of location of a licensed junkyard or automotive wrecking and salvage yard in a place that is visible from the adjacent roads or highways. This notice of hearing must be posted at least 10 days before the date set for the hearing.

Any notice required to be given pursuant to these rules, other posting the notice at the site of the proposed yard, shall be considered given by depositing same in the U.S. mail, postage pre-paid, addressed in accordance with the information given by applicant.

SECTION C. CRITERIA FOR APPROVAL

The Commissioners Court may deny approval of any application for any license sought pursuant to these rules for the following reasons:

- a. the location of the proposed yard would be detrimental to the public health, safety, or welfare;
- b. the location of the proposed yard would create a hazard to the environment;
- c. the location of the nearest boundary of the proposed yard would be within 1,000 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 County has approved a survey's plat;

- d. the location of the proposed yard would be, incompatible with the surrounding development;
- e. the location of the proposed yard would be detrimental to the economic welfare of Brazoria County;
- f. the location of the proposed yard would be within 1,500 feet of a lake, river, tributary or pond;
- g. the location of the proposed yard would be within the 100-year flood plain; or
- h. the applicant has not complied with Article 5 of these rules.

Conditions of 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 Brazoria County, the Commissioners Court may impose conditions on the location at which a junkyard or automotive wrecking and salvage yard may operate.

Time for Approval

The Commissioners Court shall decide whether to grant or deny approval of an application within 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.

ARTICLE 7 ISSUANCE OF INITIAL LICENSE AND RENEWAL

SECTION A. ISSUANCE OF LICENSES

Under the conditions established in these rules, the Director shall issue licenses to all applicants whose applications have been approved by the Commissioners Court in compliance with these rules. All licenses shall include the certification of the Brazoria County Clerk, or her authorized agent, that the license has been approved by the Commissioners Court and the date of approval. All licenses shall be originally signed by the Director or his authorized agent.

Initial Licenses

Initial licenses may be issued by the County 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.

Annual Renewal of Initial Licenses

After the initial license has been issued by the County, the Director shall renew the license within 30 days after receipt of the prescribed fee and a completed renewal application, provided that 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; the license has never been revoked and is not suspended or expired on the date of application; and the junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

SECTION B. LICENSES FOR INCREASE IN LAND AREA OR CHANGE OF LOCATION

Licenses for an increase in land area of the location or for changes in location may be issued by County 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 yard.

Annual Renewal of Licenses for Increase in Land Area or Change of Location

After the license for increase in land area or change of location has been issued by the County, the County shall renew the license within 30 days after receipt of the prescribed fee and a completed renewal application, provided that 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; the license has never been revoked and is not suspended or expired on the date of application; and the junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

**ARTICLE 8
REQUIREMENTS FOR OPERATIONS**

SECTION A. COMMENCEMENT OF OPERATIONS

A person shall not operate a junkyard or automotive wrecking and salvage yard within Brazoria County, unless that person has a valid, subsisting license obtained pursuant to these rules.

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 Article 8.04 of these rules.

Location of Yard

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

Stacking

A person may not accumulate or stack materials associated with a junk yard or an automotive wrecking and salvage yard higher than the fence surrounding the junk yard.

Effect of Local Ordinances

In screening a junkyard or an automotive wrecking and salvage yard, the person who operates it must comply, to the extent practicable, with all application ordinances adopted by a political subdivision.

SECTION B. SCREENING REQUIREMENT

A person who operates a junkyard or an automotive wrecking and salvage yard in this County shall screen the entire premises with a solid barrier fence at least eight (8) feet high. 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.

Any existing junkyard or automotive wrecking and salvage yard must bring screening requirements into compliance with these rules on or before January 1, 2009. (*Amended 11/14/07, Court Order No. 7*).

SECTION C. EXPANSION OF OPERATION

A person shall not increase the land area occupied by or change the location of a junkyard or automotive wrecking and salvage yard unless that person has a valid license for that increase in land area or change in location obtained pursuant to these rules.

SECTION D. TRANSFER OF LICENSES

A person shall give a 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 Director before transferring a license to another person. 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 Article 8 of these rules. 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.

ARTICLE 9 GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSE

SECTION A. SUSPENSION OF LICENSE

If a junkyard or automotive wrecking and salvage yard is not screened in compliance with Section 396.021 of the Texas Transportation Code, or in compliance with Chapter 397, Subchapter E of the Texas Transportation Code, whichever is applicable, the Director may 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 being operated in compliance with the applicable article.

No Longer Existing Business

If the junkyard and/or automotive wrecking and salvage yard ceases to conduct business at the location on the license for a period of 6 months or more, the Director may suspend the license for that junkyard and/or automotive wrecking and salvage yard. If said yard desires to conduct business again as a junkyard and/or automotive wrecking and salvage yard, applicant/owner will be required to re-apply for a new license as if it was a new business following the notice and hearing procedures and approval by Commissioners Court.

Notice of Suspension

If the Director suspends the license of a junkyard or automotive wrecking and salvage yard, the Director shall give notice of the suspension to the holder of the license.

SECTION B. 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 the applicable article, the license shall automatically be revoked and no valid or subsisting license shall exist for that junkyard or automotive wrecking and salvage yard.

If the applicant has provided any information in the application which is not true and correct, the license may be revoked by the Director and, if revoked, no valid license shall exist for that junkyard or automotive wrecking and salvage yard.

Notice of Revocation

If the license of a junkyard or automotive wrecking and salvage yard is revoked pursuant to these rules, the Director shall give notice of that revocation to the holder of the license.

SECTION C. HEARING ON SUSPENSION AND REVOCATION

The applicant or current holder of a suspended or revoked license may have a hearing by the Commissioners Court on the suspension or revocation of the license if a request for such a hearing is made in writing to the Brazoria County Judge within 30 days of receipt of the notice of suspension or revocation. The hearing will be set as soon as practicable, but in no event later than 30 days after receipt of the request for the hearing.

ARTICLE 10 ENFORCEMENT

Inspection

The Director may routinely inspect junkyards and automotive wrecking and salvage yards to assure continued compliance with these rules.

Criminal

A person who violates this ordinance commits an offense. An offense under this Article is a Class "C" Misdemeanor. A separate offense occurs under this Article on each day on which all of the elements of the offense exist.

Jurisdiction for prosecution of a suit under this Article is in the Justice of the Peace Courts.

Venue for prosecution of a suit under this Article is the Justice of the Peace precinct in which the violation is alleged to have occurred.

Civil

Whenever it appears that a violation of these rules has occurred, is occurring, or threatens to occur, the County or any person is entitled to bring a suit in District Court for injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

Such civil suits may not be instituted by the County unless the Commissioners Court has authorized the institution of the suit.

