

**ORDER #385**

**STATE OF TEXAS**                    §        **IN THE COMMISSIONERS COURT**

**COUNTY OF COMAL**               §

---

**COMAL COUNTY ORDER ADOPTING REGULATIONS FOR LICENSING  
JUNKYARDS OR AUTOMOTIVE WRECKING AND SALVAGE YARDS**

---

**WHEREAS**, the Texas Transportation Code §396.041 gives the commissioners court of a county the authority to require a junkyard or automotive wrecking and salvage yard to be licensed by the county;

**WHEREAS**, the Commissioners Court of Comal County posted a notice of the time and place for a public hearing to consider the adoption of an Order Adopting Regulations for Licensing Junkyards or Automotive Wrecking and Salvage yards;

**WHEREAS**, the Commissioners Court of Comal County posted the notice in the Comal County Courthouse for 10 days preceding the date of the public hearing and in a newspaper of general circulation in the county once a week for the three weeks preceding the week the public hearing was held;

**WHEREAS**, the Comal County Commissioners Court held a public hearing on December 8, 2016;

**WHEREAS**, this Order Adopting Regulations for Licensing Junkyards or Automotive Wrecking and Salvage Yards supersedes any and all previous orders adopting regulations for licensing junkyards or automotive wrecking and salvage yards;

**WHEREAS**, the Comal County Commissioners Court desires to adopt the regulations set forth in the Order Adopting Regulations for Licensing Junkyards or Automotive Wrecking and Salvage Yards.

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

## **PART 1 — ADMINISTRATION AND PRELIMINARY**

### **PROVISIONS SECTION 1.01 — AUTHORITY**

This Order is adopted by the Commissioners Court of Comal County, Texas acting in its capacity as the governing body of Comal County. The authority of Comal County to adopt this Order is derived from Chapter 396, Subchapter C, Texas Transportation Code, as amended. This Order may be amended at any time by a majority vote of Commissioners Court.

### **SECTION 1.02 – PRIOR ORDERS REPEALED**

The prior Court Order regulating automotive wrecking and salvage yards and junkyards, being Court Order No. 404588 is hereby repealed and rescinded in its entirety.

### **SECTION 1.03 — AREA COVERED BY ORDER**

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

## **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 Order.

### **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 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.

### **SECTION 2.04 - DEPARTMENT**

"Department" means the Comal County Engineer's Office.

### **SECTION 2.05 – EXPANSION OR ENLARGEMENT**

The term “Expansion” or “Enlargement” as used in this Order 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 Order, 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 Order.

#### **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 Comal 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 DEPARTMENT**

The Department shall be responsible for the administration of this Order, the issuance of licenses required by this Order, and the enforcement of this Order and the maintenance of proper records. The Department may designate a person to perform a task hereunder under the supervision of the Comal County Engineer.

### **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 Comal County without a valid and unsuspended license under this Order authorizing such operation.

#### **SECTION 4.02 - EXCEPTION**

This Order 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 which occurs after the effective date of this Order shall be subject to the provisions of this Order.

#### **SECTION 4.03 - APPLICATION AND APPROVAL PROCEDURE FOR LICENSE**

The application for a license must be on a form prescribed by the Department and shall include the following information:

- (a) The owner's name, a contact name, address and phone number;
- (b) A detailed description of the business, including its anticipated operating schedule and work hours;
- (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; and

- (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.

After the application is filed, the Department 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 Department is not required to issue a final approval of the application until after the requirements referred to above have been met.

#### **SECTION 4.04 — LICENSE REQUIRED FOR NEW FACILITY**

- (a) A License for New Facility under this Order is required for the following:

- i) Any junkyard or automotive wrecking and salvage yard that begins business operations after the date of passage of this Order; and
- ii) All junkyards or automotive wrecking and salvage yards that have undergone an Expansion or Enlargement since renewing any prior license with the County for such activities;
- iii) All junkyards or automotive wrecking and salvage yards that have undergone a Change of Ownership;

- (b) A License for New Facility shall be for one (1) year.

- (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 New Facility may be approved and issued only after the requirements set forth in Part 6 of this Order are satisfied.

- (d)

#### **SECTION 4.05 - LICENSE REQUIRED FOR EXISTING FACILITY**

- (a) A License for Existing Facility is required 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 Order, each of which being herein called an "Existing Facility".

- (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 Order;
- iii) All reviews and/or approvals required by other Comal County regulations applicable to the development of the property have been met; and
- iv) The Existing Facility is in compliance with all applicable statutory screening requirements.

#### **SECTION 4.06 - LICENSE RENEWAL REQUIREMENTS**

Upon receipt of an application for renewal of a License, the Department may issue a renewal License, effective for one (1) year after the termination of the prior License, if all requirements applicable to the issuance of the License being renewed continue to be met. In addition, the following requirements must be met:

- (a) The License has not been revoked and is not suspended or expired on the date of application.
- (b) The junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

#### **SECTION 4.07 - REQUEST FOR EXEMPTION**

A person desiring an exemption from compliance with any provision herein shall:

- (a) File a written request with the Department stating the nature of the exemption requested;
- (b) State the reason that justifies the granting of an exemption.

Upon receipt of a valid request:

- (a) The Department shall provide a written recommendation to the Commissioners Court.
- (b) 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 notice.

## **PART 5 - ISSUANCE OF INITIAL LICENSES AND RENEWAL OF LICENSES**

### **SECTION 5.01 - ISSUANCE OF LICENSES**

Under the conditions established in this Order, the Department shall issue licenses and renewals in accordance with this Order.

### **SECTION 5.02 - RENEWAL OF LICENSES**

After the initial license has been issued by the Department, the Department shall renew the license after receipt of the prescribed fee and a completed application, provided that all requirements of Section 4.06 of this Order in regard to such issuance have been met.

### **SECTION 5.03 - POSTING OF LICENSES**

All license holders must post the license on the site in a manner visible to the public.

## **PART 6 — REQUIREMENTS FOR NEW FACILITIES**

### **SECTION 6.01 - APPLICABILITY**

This Part 6 applies to a junkyard or automotive wrecking and salvage yard seeking or operating under a license for a New Facility.

### **SECTION 6.02 - 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 Transportation Code. The screening shall be at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The screening may include a fence, natural objects or plants.

### **SECTION 6.03 - EXCEPTION TO SCREENING REQUIREMENTS**

The screening requirement does not apply to the following:

- (a) an automotive wrecking and salvage yard as defined by and subject to Chapter 397 of the Texas Transportation Code;
- (b) a junkyard as defined by Texas Transportation Code Section 391.001 and subject to Subchapter E, Chapter 391 of the Texas Transportation 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.

## **SECTION 6.05 - LOCATION OF YARD AND STACKING RESTRICTIONS**

- (a) A junkyard or automotive wrecking and salvage yard may not be located:
  - i) 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 Transportation Code section 396.021.
  - ii) within 50 feet of the nearest property line of a residence.
- (b) A person may not accumulate or stack materials associated with a junkyard or automotive wrecking and salvage yard higher than eight feet above ground level.
- (c) 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), unless it has an issued Comal County Floodplain Development Permit.
- (d) The location of the junkyard or automotive wrecking and salvage yard shall not be detrimental to the public health, safety or welfare.
- (e) The location of the junkyard or automotive wrecking and salvage yard shall be in full compliance with all federal, state and local regulations.
- (f) Subsections (a) and (b) above do not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment.

## **PART 7 - REVOCATION OR SUSPENSION OF LICENSE**

### **SECTION 7.01 - 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 Order, the Department 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 Order.

### **SECTION 7.02 - 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 7.03 - APPEALS OF LICENSING ACTIONS OR DECISIONS**

An Applicant aggrieved by an action or decision of the Department enforcing the licensing provisions of this Order may appeal to the Commissioners Court through the following means:



- (a) Upon denial, suspension or revocation of a license, an Applicant may appeal the Department's decision by stating and submitting his reasons in writing to the Department within ten (10) working days of the denial, suspension or revocation of said license.
- (b) The Department shall review the appeal and shall reduce its findings in writing and submit its findings and recommendations to the Commissioners Court. The Applicant shall be provided with a copy of the Department's findings and may appear before Commissioners Court to support his appeal.

## **PART 8 – VARIANCES**

The Commissioners Court may grant a variance to the requirements of this Order where the Court deems appropriate. A variance request must be submitted to the Commissioners Court in writing that sets out the basis of the request.

## **PART 9 - ENFORCEMENT**

### **SECTION 9.01 — ENFORCEMENT**

- (a) A person commits an offense if the person operates a junkyard or automotive wrecking and salvage yard in violation of this Order.
- (b) Transportation Code Section 396.045 provides such 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) A person is entitled to an injunction to prohibit a violation or threatened violation of this Order.
- (d) The venue for the injunction proceedings is Comal County, Texas.
- (e) Nothing herein should be construed as limiting authority to pursue other remedies and punishments that may be available under law for violations of this Order by a person subject thereto.

## **PART 10 - FORMS AND RECORDS**

Forms to be used in the administration of this Order shall be promulgated by the Department.

## **PART 11 — FEES**

An application for issuance, renewal or modification of a license in accordance with the terms and conditions of this Order 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 12 — SEVERABILITY AND CONSTRUCTION**

The provisions of this Order are severable. If any word, phrase, clause, sentence, section, provision, or part of this Order 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 Order would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of this Order 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 Comal County, Texas, this 8th day of December, 2016.

  
SHERMAN KRAUSE, COUNTY JUDGE

  
DONNA ECCLESTON,  
COUNTY COMMISSIONER, PRECINCT #1

  
SCOTT HAAG,  
COUNTY COMMISSIONER, PRECINCT #2

  
KEVIN WEBB,  
COUNTY COMMISSIONER, PRECINCT #3

  
JEN CROWNOVER,  
COUNTY COMMISSIONER, PRECINCT #4



ATTEST: Bobbie Koepf by Nicole Barclwell  
BOBBIE KOEPP, COUNTY CLERK Deputy clerk

## COMAL COUNTY

\*\*\* OFFICE OF COMAL COUNTY ENGINEER \*\*\*

### Regulated Business License Application

(Valid for one year from date of issuance)

Date of Application \_\_\_\_\_

Date Business Established \_\_\_\_\_  
(Business' established prior to 1987 need to provide proof of operation startup date)

---

**Property Owner:**

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Email \_\_\_\_\_

**Business:**

Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Location Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Email \_\_\_\_\_

Contact Person \_\_\_\_\_

---

**In addition to providing the above information, the following items must be attached for approval of an application:**

1. A plat or property map, drawn to scale, showing:
    - a. the boundaries of the property
    - b. the location of any building improvements, outdoor storage areas, parking areas, and/or geographic features (i.e. creeks, rivers, etc.)
    - c. landscaping
    - d. significant foliage and vegetation
    - e. the proposed screening/fencing
    - f. the property's proximity to any residences and to public streets or highway right-of-way
  2. Property photographs/drawings
  3. Description of the screening/fencing, including:
    - a. type of material to be used
    - b. height
    - c. total linear length
    - d. color
-

By signing this application, I certify that:

- I have obtained all other necessary permits from those Federal, State or local government agencies from which prior approval is required.
- I am the property owner or I possess the appropriate land rights necessary to operate the regulated business.
- I have received a copy of the Comal County Order Adopting Regulations for Licensing Junkyards or Automotive Wrecking and Salvage Yards from the Comal County Engineers office.

**Owner Signature**

---