

**THE COMMISSIONERS' COURT**

**OF**

**ORANGE COUNTY, TEXAS**

**ORDER ESTABLISHING RULES FOR  
JUNKYARDS, AUTOMOTIVE WRECKING AND  
SALVAGE YARDS**

*Adopted May 5, 2008*

**Carl K. Thibodeaux  
Orange County Judge**

**James Stringer  
Commissioner, Precinct I**

**John Dubose  
Commissioner, Precinct III**

**Owen Burton  
Commissioner, Precinct II**

**Beamon Minton  
Commissioner, Precinct IV**

**Table Of Contents**

**I. Establishment And General Provisions**

- 1.01. Authority
- 1.02. Purpose
- 1.03. Area of Jurisdiction
- 1.04. Effective Date
- 1.05. Construction, Precedents, and Interpretation
- 1.06. Severability

**II. Definitions**

- 2.01. Applicant
- 2.02. Automobile Graveyard
- 2.03. Automotive Wrecking and Salvage Yard
- 2.04. Commissioners' Court
- 2.05. Completed Renewal Application
- 2.06. County
- 2.07. Director
- 2.08. Interested Party
- 2.09. Junk
- 2.10. Junked Vehicle
- 2.11. Junkyard
- 2.12. Motor Vehicle
- 2.13. Person
- 2.14. Proposed Yard
- 2.15. Recycling Business
- 2.16. Wrecked Vehicle

**III. Duties and Powers**

- 3.01. Duties of Director

**IV. Administrative Provisions**

- 4.01. Application and Fees
- 4.02. Exemption From Compliance With Screening Requirement
- 4.03. Exemption From Compliance With Licensing Requirement
- 4.04. Request For Exemption
- 4.05. Application and License Fees

**V. License Application Procedure**

- 5.01. Initial License
- 5.02. Supporting Documentation For Initial License
- 5.03. Disclosure of Potential Interested Parties For Initial License
- 5.04. Acknowledgment Required For Initial License
- 5.05. Renewal Application

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

- 5.06. Supporting Documentation for Renewal of License
- 5.07. Acknowledgment Required for Renewal of License
- 5.08. Application To Be Made Under Oath

**VI. Procedure For Commissioners' Court Approval**

- 6.01. Public Hearing
- 6.02. Notice of Hearing
- 6.03. Notification of Interested Parties
- 6.04. Compliance With The Texas Open Meetings Act
- 6.05. Criteria For Approval
- 6.06. Conditions of Approval
- 6.07. Time For Approval

**VII. Issuance Of Initial License And Renewal**

- 7.01. Issuance of Licenses - General Provisions
- 7.02. Issuance of Initial Licenses
- 7.03. Licenses For Increase In Land Area or Change of Location
- 7.04. Annual Renewal Of Licenses

**VIII. Requirements For Operations**

- 8.01. Commencement of Operations
- 8.02. Compliance With Conditions
- 8.03. Location of Yard
- 8.04. Stacking
- 8.05. Effect of Local Ordinances
- 8.06. Screening Requirement
- 8.07. Expansion Of Operation
- 8.08. Transfer Of Licenses

**IX. Revocation or Suspension of License**

- 9.01. Suspension of License - Screening Requirement
- 9.02. Suspension of License - Cessation of Operations
- 9.03. Revocation of License
- 9.04. Notice of Revocation or Suspension
- 9.05. Hearing On Revocation or Suspension

**X. Enforcement**

- 10.01. Inspection
- 10.02. Criminal Penalty (Class C Misdemeanor)
- 10.03. Civil Enforcement

**ARTICLE I**  
**ESTABLISHMENT AND GENERAL PROVISIONS**

- 1.01. **Authority.** These rules are adopted by the Commissioners' Court of Orange County, Texas acting in its capacity as the governing body of Orange County, Texas. Orange County adopts these rules pursuant to Chapter 396, Texas Transportation Code (Vernon 2007).
- 1.02. **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 Orange County.
- 1.03. **Area of Jurisdiction.** Except as set forth herein, these rules shall apply to all areas of Orange County except for the areas within the boundaries of incorporated cities, towns and villages of Orange County. These rules also apply to those incorporated cities, towns or villages that have adopted these rules and executed cooperative agreements with Orange County for the enforcement of these rules.
- 1.04. **Effective Date.** These rules shall become effective upon adoption by the Orange County Commissioners' Court.
- 1.05. **Construction, Precedents and Interpretation.** These rules shall be construed liberally to accomplish their purpose. The Commissioners' Court shall resolve any question regarding interpretation of these rules. In the event of any conflict between these rules and a State law, rule adopted pursuant to State law, or a municipal ordinance, the stricter of the two provisions shall prevail. 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.
- 1.06. **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 II**  
**DEFINITIONS**

- 2.01. **Applicant.** Any person who is preparing or has filed an application for a license pursuant to these rules.
- 2.02. **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.

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

- 2.03. 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.
- 2.04. Commissioners' Court.** Orange County Commissioners' Court.
- 2.05. Completed Renewal Application.** An application that contains all of the information and documents required by Article V of these rules.
- 2.06. County.** Orange County Government, its employees, agents or authorized personnel.
- 2.07. Director.** The Orange County Engineer, has agents and employees.
- 2.08. 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.
- 2.09. Junk.** Copper brass iron, steel, ferrous and non-ferrous material, rope, rags, hoses, 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.
- 2.10. Junked Vehicle.** A vehicle that is designed to be self propelled and:
- a. does not have lawfully attached to it:
    - i. An unexpired license plate; or
    - ii. a valid motor vehicle inspection certificate; and,
  - b. is:
    - i. wrecked, dismantled, or partially dismantled or discarded; or
    - ii. inoperable and has remained inoperable for more than 72 consecutive hours if the vehicle is on public property; or, 30 consecutive days if the vehicle is on private property.
- 2.11. Junkyard.** An automobile graveyard or 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 disposition of the same.
- 2.12. Motor Vehicle.** Any motor driven or propelled vehicle required to be registered under the laws of the State of Texas, including, but not limited to:
- a. a trailer or semitrailer, other than manufactured housing, that has a gross weight that exceeds 4,000 pounds;
  - b. a house trailer;
  - c. an all terrain vehicle, as defined by Section 502.001, Texas Transportation Code,

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

- designed by a manufacturer for off highway use that is not required to be registered under the laws of the State of Texas; or,
- d. a motorcycle, motor driven cycle, or moped that is not required to be registered under the laws of the State of Texas, other than a motorcycle, motor driven vehicle, or moped designed for and used exclusively on a golf course.
- 2.13. Person.** Any natural person, trust, estate, partnership, limited partnership, association, company or corporation. The term shall also include the owner of the property where the person or entity leases the premises to a person engaged in activity subject to these regulations.
- 2.14. 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.
- 2.15. Recycling Business.** A business primarily engaged in the business of:
- a. converting metal or other material into raw material products having prepared grades and an existing or potential economic value; or,
  - 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.
- 2.16. 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 III**  
**DUTIES AND POWERS**

- 3.01. Duties Of Director.** The Director is required by the Commissioners' Court to perform the following duties:
- a. to enforce these rules and make appropriate recommendations to proper County authorities when instances of noncompliance with these rules has been established; and,
  - 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 with any other information concerning these rules and their implementation which may be requested by the Commissioners' Court.

**ARTICLE IV**  
**ADMINISTRATIVE PROVISIONS**

- 4.01. Application and Fees.** The Director shall accept all applications and collect all fees

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

necessary to meet the requirements of these rules. All fees collected shall be deposited in the general fund of Orange County, Texas.

**4.02. Exemption From Screening Requirement.** The screening requirement 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 adopts these rules.

**4.03. Exemption From Licensing Requirement.**

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

**4.04. Request For Exemption.** A person desiring an exemption from compliance with any provision of these rules shall (1) file a written request with the Director stating the nature of the exemption requested; (2) state the reason that justified the granting of an exemption; and, (3) provide any additional information that the Commissioners' Court requests. Upon receipt of a valid request:

- a. the Director shall notify the Commissioners' Court of all requests for exemption within 14 days of the date on which the request is filed.
- b. within 45 days after the filing of a request, 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. If the Commissioners' Court does not give notice of the decision within 45 days of receipt of the request, the exemption is automatically granted.

**4.05. Application and License Fees.** In conjunction with the administrative provisions herein, the Director shall charge the following fees:

- a. *Application Fee.* Contemporaneously with the filing of an application for license under these rules, the Applicant shall pay a non-refundable Application Fee in the amount of \$100.00.
- b. *License Fee.* Upon approval of the Application in accordance with the terms and conditions of these rules, the Applicant shall, upon issue of a License granted under these rules, pay a non-refundable License fee in the amount of \$300.00. A License fee in the amount of \$150.00 shall likewise be paid annually upon renewal of the License.

**ARTICLE V**  
**LICENSE APPLICATION PROCEDURE**

- 5.01. Application For Initial License.** Application for licenses to operate junkyards or automotive wrecking or 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 as he may require, contain the following information:
- a. the name, telephone number, 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 Orange 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 telephone number, mailing address, residential street address and business street address of each member of the partnership;
  - f. if the applicant is a corporation, the name, telephone number, mailing address, residential street address and business street address of each officer or director of the corporation as well as the name, telephone number, mailing address, residential street address and business street address of the registered agent for service of process upon the corporation.
- 5.02. Supporting Documentation For Initial License.** The applicant shall attach the following documents to its initial application:
- a. if an assumed name (d/b/a) is used, a date stamped copy of its 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.
- 5.03. Disclosure of Potential Interested Parties For Initial License.** The party filing the application for license to operate junkyards or automotive wrecking and salvage yards shall



*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

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 should reasonably know, have an interest in receiving notice of the hearing on the application for the license.

**5.04. Acknowledgment Required For Initial License.** The application shall be sworn in accordance with Article 5.08 below and contain all of the following statements:

- a. "Applicant grants Orange County the authority to place notices pursuant to Article 3.01 on the site of the proposed yard."
- b. "All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief."
- c. "Applicant further acknowledges that the license applied for shall be subject to all provision of the codes and ordinances of Orange 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."

**5.05. Renewal Application.** Applications for renewal license 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, telephone number, 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 Orange 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 telephone number, mailing address, residential street address and business street address of each member of the partnership;
- f. if the applicant is a corporation, the name, telephone number, mailing address, residential street address and business street address of each officer or director of the corporation as well as the name, telephone number, mailing address, residential street address and business street address of the registered agent for service of process upon the corporation.

**5.06. Supporting Documents Required for Renewal of License.** 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 renewal application:

- a. if an assumed name (d/b/a) is used, a date stamped copy of its 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

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

- 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.
- 5.07. Acknowledgment Required for Renewal of License.** The application shall be sworn in accordance with Article 5.08 below and contain all of 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 yard 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 further acknowledges that the license applied for shall be subject to all provision of the codes and ordinances of Orange 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."
- 5.08. Application To Be Made Under Oath.** Application for an initial license or renewal of a 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 an officer of the corporation designated to execute the application on behalf of the corporation) before a Notary Public or other officer authorized to administer oaths.

**ARTICLE VI**  
**PROCEDURE FOR COMMISSIONERS' COURT APPROVAL**

- 6.01. 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 that meets the requirements set forth in Article V herein.
- 6.02. Form of Notice of Hearing.** In the Notice, the Director shall state:
- a. the nature of the approval sought;

*Order Establishing Rules For Junkyards, Automotive Wrecking and Salvage Yards - 5/5/08*

- b. the location for which approval is sought;
  - c. the date, 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.
- 6.03. Notification Of Interested Parties.** 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 5.03 of these rules. Notice shall be considered given by depositing the same into the U.S. mail, postage prepaid, addressed in accordance with the information given by the applicant.
- 6.04. Compliance With The Texas Open Meetings Act.** The Director shall post a notice of hearing in compliance with the Texas Open Meetings Act, Chapter 551, Texas Government Code, on the site of the proposed yard or expansion or change in location of a licensed junkyard or automotive wrecking and salvage yard in a place that is visible from the adjacent roads or highways. However, notwithstanding the posting requirement set forth in the Act, the notice required under this section shall be posted at least 10 days before the date set for the hearing.
- 6.05. 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 and 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 500 feet of the nearest property line or property on which there is a church, school, park, a hospital, nursing home, cemetery, 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 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 Orange County;
  - f. the location of the proposed yard would be within 500 feet of a lake, river, tributary pond or area designated by the United States Government or the State of Texas;
  - g. the location of the proposed yard would be within the 100 year flood plain; or
  - h. the applicant has not complied with Article V of these rules.
  - i. the gate or gates used by the Applicant for the purpose of ingress and egress to and from the yard shall be not more than 30 feet wide and shall be closed each night at

30 minutes past civil twilight until 30 minutes before dawn, except where it is necessary to open the gate for the purpose of ingress and egress or to receive after hours cargo or loads. On such occasion, the gate shall be immediately closed after each use.

- 6.06. Conditions Of Approval.** In granting approval for any application for a license to establish or expand or change location of any junkyard or automotive wrecking and salvage yard within Orange County, the Commissioners' Court may impose conditions on the location at which a junkyard or automotive wrecking and salvage yard may operate.
- 6.07. Time For Approval.** The Commissioners' Court shall decide whether or not 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 VII**  
**ISSUANCE OF INITIAL LICENSE AND RENEWAL**

- 7.01. Issuance of Licenses - General Provisions.** 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 Orange County Clerk, or her authorized deputy, that the license has been approved by the Commissioners' Court and the date of the approval.
- 7.02. Issuance of Initial Licenses.** Initial licenses may be issued by the Director 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.
- 7.03. Licenses For Increase In Land Area or Change of Location.** Licenses for an increase in land area of the location or for a change in location may be issued by the Director 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.
- 7.04. Annual Renewal Of Licenses.** After the initial license has been issued by the Director, the Director shall renew the license within 30 days after receipt of the prescribed fee and completed application, provided that:
- a. the location in the application is the same land area and geographic location as that approved by the Commissioners' Court; and,
  - b. the license has never been revoked; and,
  - c. the license is not suspended or expired on the date of application; and,
  - d. the junkyard or automotive wrecking and salvage yard is in operation on the date of application for renewal.

**ARTICLE VIII**  
**REQUIREMENTS FOR OPERATIONS**

- 8.01. Commencement of Operations.** In screening a junkyard or automotive wrecking or salvage yard, the person who operates the yard must comply with all applicable ordinances adopted by a political subdivision as well as these rules.
- 8.02. Compliance With Conditions.** A person granted a license shall comply with all conditions placed on the location of the junkyard or automotive wrecking or salvage yard by the Commissioners' Court pursuant to Article 6.06 of these rules.
- 8.03. Location of Yard.** A junkyard or automotive wrecking and salvage yard shall not be located within 50 feet of the right or way of a public street, state highway or residence.
- 8.04. Stacking.** A person shall not accumulate or stack materials associated with a junkyard or an automotive wrecking or salvage yard higher than the fence or screen (as set forth in Article 8.06) surrounding the location.
- 8.05. Effect of Local Ordinances.** In screening a junkyard or an automotive wrecking and salvage yard, the person who operates the yard must comply with all applicable ordinances adopted by the political subdivision.
- 8.06. Screening Requirement.** A person who operates a junkyard or automotive wrecking or salvage yard shall screen the junkyard or automotive wrecking and salvage yard to 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.<sup>1</sup> The person may screen the yard by any appropriate means, including:
- a. a fence;
  - b. natural objects; or
  - c. plants.
- 8.07. 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 in accordance with these rules.
- 8.08. Transfer Of Licenses.** A person shall give notice stating the name, telephone number, mailing address, residential street address and business street address of all transferees and any change in the name of the operation to the Director before transferring a license to

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<sup>1</sup> See, Section 396.021, Texas Transportation Code

another person. A person shall not transfer a license from one location to another without prior application and approval of the Commissioners' Court after notice and public hearing in accordance with Article VI of these rules. Any license transferred from one location to another location without prior approval of Commissioners' Court shall render the license void.

**ARTICLE IX**  
**REVOCATION OR SUSPENSION OF LICENSE**

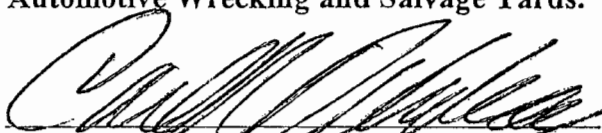
- 9.01. Suspension of License - Screening Requirement.** If a junkyard or automotive wrecking and salvage yard is not screened in compliance with Article 8.06 herein, the Director shall suspend the license for that junkyard or automotive wrecking and salvage yard. The suspension shall continue until the junkyard or automotive wrecking and salvage yard is being operated in compliance with Article 8.06 herein.
- 9.02. Suspension of License - Cessation of Operations.** If the junkyard 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 shall suspend the license for that junkyard or automotive wrecking and salvage yard. If the licensee desires to resume operations again as a junkyard or automotive wrecking and salvage yard, the licensee will be required to reapply for a new initial license as set forth in these rules.
- 9.03. 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 shall be automatically revoked and rendered void.
- 9.04. Notice of Revocation.** If the license of a junkyard or automotive wrecking and salvage yard is suspended or revoked pursuant to these rules, the Director shall give written notice of that revocation to license holder via certified mail, return receipt requested to the business address given by the license holder in its application.
- 9.05. 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, if such a request for a hearing is made in writing to the Orange County Judge within 30 days of receipt of the notice of revocation or suspension. The hearing on the suspension or revocation shall be set as soon as practicable, but, in no event, later than 30 days from the date of receipt of the request for the hearing.

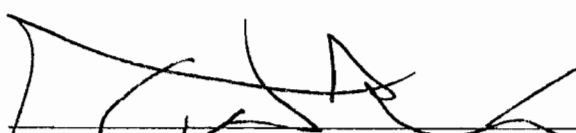
**ARTICLE X**  
**ENFORCEMENT**

- 10.01. **Inspection.** The Director or his authorized agents shall routinely inspect junkyard or automotive wrecking and salvage yards to assure compliance with these rules.
- 10.02. **Criminal Penalty (Class C Misdemeanor).** A person who violates this ordinance commits a criminal offense. An offense under this Article shall be a Class "C" Misdemeanor. A separate offense occurs under this Article on each day on which all of the elements of the offense exist.
- 10.03. **Civil Enforcement.** 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 threatens to commit the violation. Such civil suits shall not be instituted by, or on behalf of Orange County, unless approved by the Commissioners' Court.

**PASSED AND ADOPTED:**

On this the 5<sup>th</sup> day of May, 2008, the Commissioners Court of Orange County, Texas adopts the foregoing **Order Establishing Rules for Junkyards, Automotive Wrecking and Salvage Yards.**

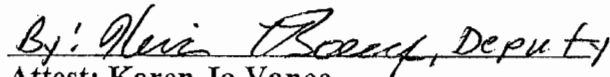
  
Carl K. Thibodeaux, Orange County Judge

  
James Stringer, Commissioner Precinct I

  
Owen Burton, Commissioner, Precinct II

  
John Dubose, Commissioner, Precinct III

  
Beamon Minton, Commissioner, Precinct IV

By:   
Attest: Karen Jo Vance,  
Orange County Clerk