

## ARTICLE 4.09

### AUTOMOBILE STORAGE LOTS, AUTOMOBILE WRECKING AND SALVAGE YARDS (JUNKYARD) AND LOTS USED FOR OPEN STORAGE BY METAL RECYCLERS

#### OUTLINE

*Note - All additions to the existing code are shown in red and underlined text. All deletions, if any, are shown in red and strike-out text.*

#### CHAPTER 4

##### BUSINESS REGULATIONS

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##### ARTICLE 4.02 ALCOHOLIC BEVERAGES\*

##### ARTICLE 4.03 ITINERANT MERCHANTS\*

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### ARTICLE 4.09 AUTOMOBILE STORAGE LOTS, AUTOMOBILE WRECKING AND SALVAGE YARDS (JUNKYARD) AND LOTS USED FOR OPEN STORAGE BY METAL RECYCLERS

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## ARTICLE 4.09

### AUTOMOBILE STORAGE LOTS, AUTOMOBILE WRECKING AND SALVAGE YARDS (JUNKYARD) AND LOTS USED FOR OPEN STORAGE BY METAL RECYCLERS

#### SECTIONS - PROPOSED CODE AMENDMENTS

*Note - All additions to the existing code are shown in red and underlined text. All deletions, if any, are shown in red and strike-out text.*

#### CHAPTER 4

#### BUSINESS REGULATIONS

#### ARTICLE 4.01 GENERAL PROVISIONS

(Reserved)

ARTICLE 4.02 ALCOHOLIC BEVERAGES\*

ARTICLE 4.03 ITINERANT MERCHANTS\*

ARTICLE 4.04 AMBULANCE SERVICE\*

ARTICLE 4.05 FAIR HOUSING\*

ARTICLE 4.06 GARAGE SALES

ARTICLE 4.07 SLAUGHTERHOUSES

Sec. 4.07.001 Location restricted

ARTICLE 4.08 BINGO GAMES

### ARTICLE 4.09 AUTOMOBILE STORAGE LOTS, AUTOMOBILE WRECKING AND SALVAGE YARDS (JUNKYARD) AND LOTS USED FOR OPEN STORAGE BY METAL RECYCLERS

#### Sec. 4.09.001 Definitions

Automobile storage lot. A licensed automotive storage lot, such as a vehicle dealer, auto wrecker, body shop facility with storage privileges, or a storage lot.

Automotive rebuilder. Any person who, primarily or incidentally, wholly or part time, engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public in or operating as a public dealer in used, secondhand or salvage titled motor vehicles or trailers for the purpose of rebuilding or dismantling wrecked or salvage titled motor vehicles or trailers.

Boundary of operations. Shall be the fence line limiting the portion of a larger lot or tract to be used as the business operation area for the business under this article. The boundary of operations and the fence shall be shown on a legal (or official) survey filed with the application for license and must be fenced according to the applicable standards of this Code. The survey shall show each route that will be used for vehicular ingress or egress to the business operation area. If the ingress or egress will not be exclusively taken from one or more public streets that abut the business operation area, then each route of vehicular ingress or egress must be included within the

surveyed and fenced boundary of operations. This definition is applicable to automobile storage lots, used automotive parts recyclers, lots used for open storage by automotive rebuilders, and lots used for open storage by metal recyclers only and has no effect on any other person or business required to be licensed by the city.

Church. A structure where a society of persons who profess a religious belief regularly assemble for religious worship or religious instruction and which is exempt from ad valorem taxes.

Metal recycler. Any person who:

(1) Engages in the business of purchasing aluminum cans or ferrous or nonferrous metals, such as stainless steel alloys, copper cables or steel plates;

(2) Engages in the business of utilizing machinery or equipment for the processing or manufacturing of iron, steel or nonferrous metallic scrap and whose principal product is scrap metal for reuse; or

(3) Operates or maintains a place in which used metal items or scrap metal is purchased, collected or kept for shipment, sale, or transfer to other facilities.

The term does not include secondhand resellers for flea markets as defined in Chapter 6, Article 6.03 of this Code.

Open storage. Materials stored upon a lot not within an enclosed structure.

Residence. Any structure which, at the time the application for a license is filed, is being used as a dwelling place for residential purposes, whether single-family or multifamily. A structure located on a lot or tract of land used as an automobile storage lot, used automotive parts recycler, lot used for open storage by an automotive rebuilder, or lot used for open storage by a metal recycler shall not be considered a residence within the terms of this definition.

School. A public or private elementary, junior high, or high school, or other levels

Used automotive parts recycler. Any person who engages in the public business of keeping or storing discarded, abandoned, junked, wrecked, worn out, salvage titled or otherwise disabled or nonrepairable motor vehicles, including but not limited to cars, trucks, tractor trailers and buses, for the purpose of disassembling, dismantling, cutting up, stripping or otherwise wrecking those motor vehicles to extract therefrom parts, components, or accessories for sale, export or use in an automotive repair or rebuilding business.

Used parts and used accessories dealer. Any person who, primarily or incidentally, wholly or part time, engages in, conducts, or carries on the public business of buying, selling, offering for sale, consigning to be sold, trading or otherwise dealing with the public in or operating as a public dealer in used or secondhand motor vehicle parts or accessories for motor vehicles, either or both; but does not rebuild, dismantle, wreck or disassemble motor vehicles or trailers as part of such business. This term shall not include a business that is licensed as a pawnshop pursuant to Chapter 371 of the Texas Finance Code.

#### Sec. 4.09.002 Prohibition

It shall be unlawful for any person to operate or cause to be operated within 300 feet of an existing church, school, or residence:

- (a) An automobile storage lot, whether licensed as an automotive storage lot pursuant to regulations of this Code or as a vehicle storage facility pursuant to the Vehicle Storage Facility Act (Chapter 2303 of the Texas Occupations Code);
- (b) A used automotive parts recycler as defined in this article;
- (c) A lot used for open storage by an automotive rebuilder as defined in this article;
- (d) A lot used for open storage by a metal recycler, as defined in this article;
- (e) A lot used for open storage by a used parts and used accessories dealer as defined in this article.

#### Sec. 4.09.003 Measurement of location

The 300-foot measurement required under section 4.09.002 shall be in a straight line from the property line or (at the applicant's request) from the boundary of operations of the automobile storage lot, used automotive parts recycler, lot used for open storage by an automotive rebuilder, or lot used by a metal recycler for open storage to the property line of the church, school or residence.

#### Sec. 4.09.004 Legal nonconformance

A facility that is lawfully in operation shall not become unlawful because a church, school, or residence is subsequently established within 300 feet of the facility and, provided that the facility remains continuously in operation without cessation for a period of 90 or more consecutive days, the permit or license for the facility may, subject to compliance with other applicable laws, nevertheless be renewed or transferred.

#### Sec. 4.09.005 License required

- (a) A person shall not own or operate a used automotive parts recycling business within the city without a valid Texas Department of Licensing & Regulation License issued used automotive parts recycler license.
- (b) A person owning or operating a used automotive parts recycling business shall not accept regulated material, as defined above, outside a motor vehicle's normal allocation without a Texas Department of Licensing & Regulation License issued metal recycling entity license.

#### Sec. 4.09.006 Operation to be in building, enclosure; walls and fences required

- (a) All used automotive parts recycling businesses including said buildings, equipment necessary for daily operations and salvage or non-repairable oversized vehicles, and any piles of crushed vehicles or salvage materials must be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence of at least 8' (eight feet) in height, such that the interior of the used automotive parts recycling business is not visible from the exterior.

- (b) The wall or screen fence must not block necessary water drainage

**Commented [AG1]:** TX Transportation Code 396.021 states that any person who runs an automotive wrecking & salvage yard; junkyard (as defined by state law); recycling business; or junkyard or automotive wrecking and salvage yard entirely in/regulated by a municipality shall screen the junkyard or automotive wrecking and salvage yard with a solid barrier fence at least 8' high.

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Sec. 4.09.007 Accessibility of material on premises

(i) Salvage materials on the premises shall be arranged so that a reasonable inspection of, or access to, all parts of the premises can be had at any time by the proper fire, health, police, code enforcement, and building authorities which inspections used automotive parts recyclers shall permit during business hours or any reasonable period afterwards. All junked, wrecked or inoperable vehicle bodies located outside of a building shall be so stacked only with the use of metal racks or other safe, metal supports so that all bodies are at least six (6) inches above the ground or base surface and are arranged to provide ease of inspection, control of insects and rodents, and to facilitate water drainage, containment, and waste control. Neither the vehicle bodies, vehicle parts, nor other salvage materials and any scrap, used or obsolete ferrous or nonferrous metal, including regulated material shall be stored or stacked higher than the height of the used automotive parts recycling business wall or screen fence.

Exception: Stacking mandates shall not include those vehicles in initial intake/holding areas being processed prior to public access. Intake/holding areas must be fenced or otherwise sectioned off from the main yard and shall not exceed a size of five (5) total acreage per certificate of occupancy. Vehicle processing includes removal of various contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste, including, but not limited to, oil, gas, Freon, mercury and biohazardous materials as required by state and federal law. An unprocessed vehicle must be labeled as such and may not be in process for greater than fourteen (14) days.

(j) No materials shall be placed in any manner outside of the screen fence or wall surrounding the area being used for automobile storage lots, automobile wrecking and salvage yards (junkyard), and lots used for open storage by metal recyclers

(k) Required screening

(1) Along all roadways adjacent to the uses listed in this Article 4.09, there shall be a:

(A) A screening fence, with a minimum height of ~~six-eight feet (68)~~, located along the property line between two (2) adjacent properties and a minimum twenty-five-foot (25) wide landscaped buffer along the property line that is adjacent to the street. The buffer shall contain trees and shrubs and remain open and unobstructed (i.e., no parking or other structures, except for driveways providing access from the street).

(B) Buffers may be located within the required yard/setback area.

(l) Automotive salvage yards will require an Industrial Stormwater Permit.

(m) Premises shall be kept clean of any weeds and/or brush over twelve (12) inches tall where materials are kept and/or within one hundred fifty (150) feet from the curb line of adjacent streets or the edge of the streets or road surface where no curb exists.

(n) Upon the used automotive parts recycler's possession of all salvage materials, contaminated liquid wastes along with other contaminated materials, hazardous waste, and special waste (including Freon) shall be removed from the salvage materials and contained, stored, and disposed in compliance with all applicable state

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and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The used automotive parts recycler shall maintain on premises all completed manifests evidencing legal disposal for a period of no less than three (3) years from the date of disposal.

(o) All storage of liquid waste shall be subject to applicable state and federal regulations. In no event shall any used automotive parts recycler maintain a volume and weight of stored liquid waste inventory in excess of the lesser of the maximum exempt amounts allowed by the fire code as adopted within the City Code or state and federal regulations for a small quantity generator. All liquid waste shall be stored only in above ground containers in accordance with all applicable federal, state and local laws and administrative regulations. It is unlawful for any waste to be held in a container which leaks, is in any other manner not in compliance with state and federal regulations, or in any manner fails to completely contain the material in question. All solid waste, regardless of character or category, shall be so contained as to cause or allow no release or spill of the material in question.

(p) All used automotive parts recycling businesses must have a fire safety path. No salvage materials must be placed within ten (10) feet of the surrounding wall or screen fence. The fire chief shall oversee fire safety path specifications and compliance for each used automotive parts recycling business and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual used automotive parts recycling business. All penalties and appellate procedures this Code shall apply to this subsection.

#### Sec. 4.09.008 Retention periods

Any retention periods required by this chapter are not meant to replace any required retention periods provided by state law; in the event there is a conflict between retention periods provided for in this chapter and retention periods required by state law, the longer retention requirements shall apply.

#### Sec. 4.09.009 Requirement for certificate of occupancy

Any business covered by this chapter that operates out of facilities required by city ordinance to have a certificate of occupancy must obtain said certificate of occupancy prior to a license being issued under this chapter.

#### Sec. 4.09.0010 Process for revocation of license; appeal

(a) A license issued pursuant to this chapter may be revoked without refund of any portion of the license application or renewal fee.

(b) The designated City staff shall give written notice of revocation to the licensee by certified mail, return receipt requested, and by regular mail, setting forth the grounds for revocation and the opportunity to request a hearing regarding the revocation. A revocation hearing based upon the licensee's conviction of a criminal offense shall be conducted in accordance with this Code and applicable state laws.

(c) If the licensee wishes to request a hearing, the request must be made in writing and provided to the designated City staff within ten business days of the date of the designated City staff's notice of revocation. The hearing shall be conducted within 20 business days of the designated City staff's receipt of the request. If the licensee does not request a hearing within ten business days, the revocation is effective on the 11th business day after the date of the designated City staff's revocation notice.

(d) The hearing shall be conducted by a hearing officer appointed by the designated City staff, who shall revoke the license if he determines by a preponderance of the evidence that grounds exist for revocation. At the hearing, the licensee may be represented by an attorney, present evidence, and cross-examine witnesses.

(e) The hearing officer shall give written notice to the licensee of his findings as to whether or not the license should be revoked and the reasons therefor. The notice shall be by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than 30 days thereafter. The decision of the hearing officer shall be final.

Incorporated legal comments