

ORDINANCE NO 2016-O-8.

AN ORDINANCE AMENDING ARTICLE 4.04 "JUNKYARDS, WRECKING YARDS, SALVAGE YARDS" OF THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADOPT DEFINITIONS AND REGULATIONS AS TO THE LOCATION AND OPERATION OF JUNKYARDS, WRECKING YARDS, AND SALVAGE YARDS WITHIN THE CITY; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY FOR VIOLATIONS; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that in order to better regulate and control junkyards, wrecking yards, and salvage yards within the City and thereby protect the health, safety and welfare of the citizens of Palacios, that a uniform set of definitions regarding such operations be adopted, as described within this ordinance; and

WHEREAS, the City Council of the City of Palacios has also determined that it should adopt regulations regarding junkyards, wrecking yards, and salvage yards in order to further protect the health, safety, and welfare of its citizens, such regulations being described herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That Section 4.04.001, of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

Sec. 4.04.001 ~~002~~ Prohibited; exceptions

(a) Any place used or maintained by any person, partnership, or corporation as a junkyard or dumping ground, or for the wrecking or disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the maintenance or operation of such place for the accumulation of rubbish of any description, is hereby declared to be a public and common nuisance, and is prohibited within the city limits, unless the same is conducted in the manner hereinafter stated, following the payment of the license fee prescribed.

(b) No junkyard, salvage or wrecking yard shall be maintained, used or operated on any lot, plot or tract of land any part of which is located within 50 feet from any school, daycare facility, hospital, or residence. Furthermore, a minimum of one acre shall be required for a junkyard, salvage or wrecking yard.

SECTION 2: That a new Section 4.04.001 of the Code of Ordinances of the City of Palacios, Texas is hereby adopted and shall read as follows:

Sec. 4.04.001 Definitions:

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Automotive wrecking and salvage yard: 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.

Child-care facility: the meaning set forth in the V.T.C.A. (Vernon's Texas Statutes and Codes Annotated), Human Resources Code 42.002, as it may be amended in the future.

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

Hospital: A legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.

Junk: 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.

Junkyard: 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.

Motor vehicle: has the meaning assigned by V.T.C.A. (Vernon's Texas Statutes and Codes Annotated), Transportation Code 541.201.

Person: an individual, partnership, corporation, estate, limited liability Company, trust, association or any other legal entity however formed.

Recycling business: a business primarily engaged in the business of:

- (a) converting metal or other material into raw material products that have:
 - (1) prepared grades; and
 - (2) 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).

Residence: any structure which, at the time of the application for a permit, is being used as a dwelling place for residential purposes, whether single-family or multi-family.

Retention bond: Type of performance bond that protects the customer after a job or project is finished. It guarantees that the contractor will carry out all necessary work to correct structural and/or other defects discovered immediately after completion of the contract, even if full payment has been made to the contractor.

School: a public or private elementary, junior high, high school and/or institution of higher education.

T.C.E.O. (Texas Commission on Environmental Quality): State agency responsible for protecting our state's public health and natural resources through laws and regulations.

V.T.C.A. (Vernon's Texas Statutes and Codes Annotated): a compilation of Texas law that is updated annually.

Wrecking yard: place for dismantling, storage, trading or buying and selling of disabled dismantled and damaged vehicles. A damaged vehicle as used herein means any vehicle, which has been involved in a collision in which a re-inspection is required by state law.

SECTION 3: That Section 4.04.004, of the Code of Ordinances of the City of Palacios, Texas is hereby amended to read as follows:

Sec. 4.04.004 009 Revocation of License

The city council shall have the power to revoke the license provided for herein at any time for good cause, but only after notice has been given to the owner or owners of the business of a hearing to be held not less than ten (10) days after the service of such notice.

SECTION 4: That new Sections 4.04.003 through 4.04.008 of the Code of Ordinances of the City of Palacios, Texas are hereby adopted and shall read as follows:

Sec. 4.04.003 License application and issuance procedures

(a) Junkyard, salvage and wrecking yards shall have all required permits issued from TCEQ and must meet all federal and state requirements.

(b) Junkyard, salvage and wrecking yards shall file a license application with the city secretary and provide a retention bond along with copies of all required permits. Any violations shall be reported to the code enforcement office.

(c) Junkyard, salvage and wrecking yard permit fee shall be \$100 annually, inspection fee of \$100 will include four quarterly inspections; additional inspections will be \$50 per inspection.

Sec. 4.04.004 Fencing

(a) A solid eight foot fence or wall constructed of wood or masonry and must at all times encompass the entire property of a junkyard, salvage or wrecking yard. Fences shall be constructed of all the same material and have the same color and may not have any sign appear on its surface other than a sign indicating the business name.

(b) Openings in the prescribed enclosures which are necessary to permit reasonable access to the junkyard shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times, except during normal business hours.

Sec. 4.04.005 Storage and Maintenance

(a) No items shall be placed, stored, dismantled or worked on outside the fenced or walled areas.

(b) All junked items shall be stacked and stored in a manner that would not make it visible over the fence or wall.

(c) All junk car bodies which are located outside of a building shall be stored on racks or supports so that the body makes no contact with the ground so as to provide for easier inspection and control of insects and rodents, and so as to facilitate water drainage.

(d) Salvaged parts for retail shall be stored indoors on racks or shelves two feet above floor for ease of maintenance.

(e) Any junkyard, salvage or wrecking yard shall be kept and maintained in a clean and sanitary condition so as not to attract rodents or insects. Grass and other vegetation shall not be allowed to grow to a height more than twelve (12) inches.

Sec. 4.04.006 Contaminated Liquid and Solid

(a) Upon the metal recycling entity'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 and federal regulations. Disposal of accumulated contaminated liquids and materials shall be accomplished by a duly licensed contractor. The

metal recycling entity shall maintain on premises all completed manifests evidencing legal disposal for a period of three (3) years from the date of disposal.

(b) All storage of liquid waste shall be subject to applicable local, state and federal regulations. In no event shall any metal recycling entity 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 applicable federal, state and local laws and administrative regulations. It is unlawful for any waste to be held in a container that 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.

(c) 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.

Sec. 4.04.007 Fire Safety

All metal recycling entities, as defined by this division, shall have a fire safety path. No salvage materials shall 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 metal recycling entity and may alter the required number of feet in accordance with the location, use, size, and other characteristics of an individual metal recycling entity.

Sec. 4.04.008 Existing Junkyards, Wrecking Yards, Salvage Yards

All existing junk yards, salvage and wrecking yards shall comply with the requirements of these regulations within one year of the effective date of the regulations, except for location.

SECTION 5: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 6: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

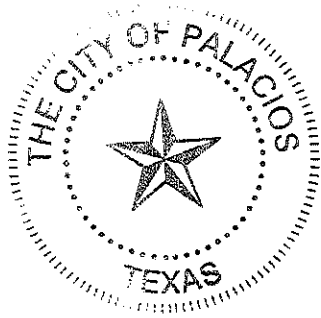
SECTION 7: Any person who shall violate any provision or provisions of this ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$500.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 8: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this 11th day of October, 2016.

PASSED, APPROVED AND ADOPTED on second and final reading this 25th day of October, 2016.

CITY OF PALACIOS, TEXAS



GLEN SMITH, Mayor

ATTEST:

Angela Flores

ANGELA FLORES, City Secretary

APPROVED AS TO FORM:

Glen Smith

RANDALL B. STRONG, City Attorney

...ordinances/amending junkyards