

COURT ORDER

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ORDER NO: 2010 0913

DATE: May 25, 2010

STATE OF TEXAS §

COUNTY OF DALLAS §

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on the 25th day of May, 2010, on motion made by Mike Cantrell, Commissioner of District No. 2, and seconded by Maurine Dickey, Commissioner of District No. 1, the following Order was adopted:


WHEREAS, on May 18, 2010, the Dallas County Commissioners Court was briefed on a proposal to adopt regulations which would govern the location, storage practices, and screening of certain outdoor businesses in the County's unincorporated area; and

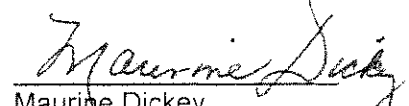
WHEREAS, these proposed regulations will help protect the public's health, safety, and welfare; and

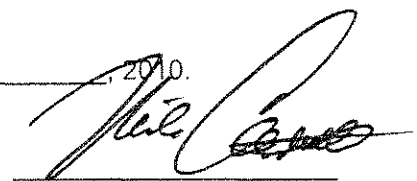
WHEREAS, the adoption of such regulations is consistent with the County's strategic plan which specifically recommends that the County take actions designed to protect the public's health and safety and to have the County become the destination of choice for businesses and residents.


IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Dallas County adopts the attached regulations which shall govern the location, storage practices, and screening of certain outdoor businesses in the County's unincorporated area.

DONE IN OPEN COURT this the 25th day of May, 2010.

  
Jim Foster  
County Judge

  
Maurine Dickey  
Commissioner District #1

  
Mike Cantrell  
Commissioner District #2

  
John Wiley Price  
Commissioner District #3

ABSENT  
Kenneth A. Mayfield  
Commissioner District #4

Recommended by: 

# REGULATION OF CERTAIN OUTDOOR BUSINESSES

## SECTION 1. PURPOSE.

- 1.1 It is the purpose of these regulations to protect the public's health, safety, and welfare by ensuring that certain outdoor businesses in Dallas County's unincorporated area are appropriately screened and/or located.

## SECTION 2. AUTHORITY AND APPLICABILITY.

- 2.1 These regulations are authorized under Chapter 234 of the Texas Local Government Code, as amended, and Chapter 396 of the Texas Transportation Code, as amended, and apply only to certain outdoor businesses located within Dallas County's unincorporated area.

## SECTION 3. DEFINITIONS.

- 3.1 ***Automobile wrecking yard and salvage yard:*** A business other than a business classified as a salvage pool operator under Chapter 2302 of the Texas Occupations Code that stores three or more wrecked vehicles for the purpose of either selling the vehicles whole or dismantling/wrecking the vehicles to remove parts for sale or use.
- 3.2 ***Demolition business:*** A business that demolishes structures, including houses and other buildings, in order to salvage building materials and that stores these materials before disposing of them.
- 3.3 ***Junkyard:*** A business that stores, buys, or sells materials that have been discarded or sold at a nominal price by a previous owner and that keeps all or part of the materials outdoors until disposing of them.
- 3.4 ***Outdoor resale business:*** A business that sells used merchandise, other than automobiles, logging equipment, or other agricultural equipment, and that stores or displays the merchandise outdoors.
- 3.5 ***Recycling business:*** A business that is primarily engaged in converting ferrous or nonferrous metals or other materials into raw materials having prepared grades and having an existing or potential economic value, using raw material products of that kind in the production of new products, or obtaining or storing ferrous or nonferrous metals or other materials for the purpose of converting or using them in the production of another product.

- 3.6 **Director of Planning & Development:** Dallas County's Director of Planning & Development or his designee.

#### **SECTION 4. SCREENING/FENCING REQUIREMENTS.**

- 4.1 All automotive wrecking and salvage yards, demolition businesses, junkyards, outdoor resale businesses, and recycling businesses subject to these regulations shall be screened with a solid barrier fence at least eight feet high so that any outdoor operations and/or material, goods, items, debris, or equipment that is stored outdoors cannot reasonably be seen from an adjacent street or property. The fence must be maintained in a neat, orderly, upright, and sound manner at all times, it must be painted a natural earth tone, and it may not have any sign appear on its surface other than a sign indicating the business name and telephone number and the property's street address.

#### **SECTION 5. LOCATION/STORAGE REQUIREMENTS.**

- 5.1 Junkyards and automotive wrecking and salvage yards may not be located within fifty feet of the right-of-way of a public street, state highway, or residence.
- 5.2 A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking yard and salvage yard higher than eight feet above ground.

#### **SECTION 6. EXCEPTIONS.**

- 6.1 Farm machinery owned or operated by the person on whose property the machinery is located and kept on that property for purposes other than sale is exempt from these regulations.
- 6.2 A business subject to a screening/fencing requirement under Subchapter E of Chapter 391, Chapter 396, or Chapter 397 of the Texas Transportation Code and that was in compliance with that screening requirement on August 26, 1991 is exempt from these regulations.
- 6.3 A junkyard or an automotive wrecking and salvage yard in operation at its present location at the time these regulations were adopted is exempt from SECTION 5.1 of these regulations.

## **SECTION 7. SCREENING/FENCING COMPLIANCE PERIOD FOR EXISTING BUSINESSES.**

- 7.1** All outdoor businesses subject to these regulations and in operation at their present location at the time these regulations were adopted shall be given a reasonable period to comply with the screening/fencing requirements of SECTION 4. This reasonable period will be determined on a case-by-case basis by the Director of Planning & Development who shall take into consideration such factors as, but not limited to, surrounding topography; the nature of and the operating characteristics of the business; the visibility of the business from and its proximity to residences, streets, and other properties; surrounding foliage, landscaping, and vegetation; and the size of the business property.
- 7.2** The amount of time that may be given to a business under SECTION 7.1 may be extended for cause by the Director of Planning & Development. However, the total amount of time that may be given by the Director of Planning & Development cannot exceed beyond twelve months of the date of when these regulations were adopted.

## **SECTION 8. PERMITTING PROCESS FOR NEW BUSINESSES.**

- 8.1** Outdoor businesses not in operation at their current operation at the time these regulations were adopted will only be allowed within the unincorporated area by permit from the County. No new outdoor business subject to these regulations can be constructed without a permit issued by the Director of Planning & Development
- 8.2** All individuals, businesses, and organizations interested in constructing, operating, or locating an outdoor business must submit a permit application to the Director of Planning & Development (411 Elm Street, 3<sup>rd</sup> Floor, Dallas, TX 75202).
- 8.3** Permit applications shall be in a form prescribed by the County and shall contain the following information:
- A. The firm name, a contact name, address, and phone number.
  - B. A description of the type of outdoor business, including its anticipated operating schedule and work hours, and its proximity to residences, other properties, and streets.
  - 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 street/state highway right-of-way.

- 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.
- E. Any other information that the County may deem necessary.

8.4 Permit applications shall be used to determine whether a proposed outdoor business will be in compliance with these regulations.

8.5 Permits shall be issued for proposed outdoor businesses that are consistent with these regulations. The party associated with a proposed structure that is not consistent with these regulations and that is not exempt from them will be informed in writing by the Director of Planning & Development that its permit request has been denied. This notification will also cite the reason(s) why the permit was denied.

## **SECTION 9. VIOLATIONS, ENFORCEMENT, NOTIFICATION, AND PENALTIES.**

9.1 A violation to these regulations occurs when:

- A. An existing outdoor business fails to initially comply with SECTION 4 within the time period prescribed by the Director of Planning & Development.
- B. An existing outdoor business that at one time was in compliance with SECTION 4 fails to sustain this compliance.
- C. An existing outdoor business fails to comply with SECTION 5.2.
- D. An outdoor business not in existence at the time these regulations were adopted fails to comply with SECTION 4 or SECTION 5.

9.2 When a violation to these regulations occurs, the County shall inform the outdoor business in writing that a violation exists, describe the nature of the violation, and provide it with thirty days to appropriately remove the violation. The Director of Planning & Development may extend this thirty-day period for cause for up to an additional thirty days if the outdoor business submits a written extension request no later than the twenty-fifth day of the initial thirty-day period.

- 9.3 If either no extension request is made or granted and the violation remains after the initial thirty-day compliance period expires or an extension request is granted and the violation remains after this extension period expires, then the County will take action and seek penalties in accordance with SECTION 9.4 and 9.5 and other State law.
- 9.4 The County may file a civil action to recover a civil penalty from a business that violates SECTION 4. The penalty may not exceed \$50 each day for the first ten days of the violation, \$100 each day for the next ten days, \$250 each day for the next ten days, and \$1000 for each day thereafter.
- 9.5 Violations of SECTION 5 are a misdemeanor punishable by a fine of not less than \$100 or more than \$500. Each day a violation continues is a separate offense.
- 9.6 In addition to or in lieu of the other provisions contained in SECTION 9, the County may file an action to enjoin either a violation or a threatened violation of these regulations.