

HARRIS COUNTY

Public Infrastructure Department
Architecture & Engineering Division

1001 Preston, 7th Floor
Houston, Texas 77002
(713) 755-5370

September 9, 2009

Honorable County Judge
& Commissioners' Court
Building

SUBJECT: Recommendation by the Director of Architecture & Engineering that Commissioners' Court Adopt an Order Authorizing and Adopting the Ordinance of Harris County, Texas Regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards

Dear Court Members:

It is recommended that Commissioners' Court adopt an order authorizing and adopting the Ordinance of Harris County, Texas regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards.

The ordinance requires that all new junkyards and automotive wrecking and salvage yards and existing junkyards and automotive wrecking and salvage yards in operation after June 1, 1987 be licensed.

It is recommended that this ordinance be accepted and adopted by Commissioners' Court with an effective date of January 1, 2010.

Sincerely,


John R. Blount, P.E.
Director, Architecture & Engineering

Vote of the Court:	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radaack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

JRB/RJA/sh
Attachments

- cc: Arthur L. Storey, Jr.
- Jackie L. Freeman
- Raymond J. Anderson
- Joshua Stuckey
- Sheryl Herbert
- Agenda File

Ignacio.cas ✓
Walt/Anita.cas ✓
E.W.cas ✓
Comms Pds 1-4.cas ✓✓✓
CO Judge.cas ✓

Presented to Commissioner's Court

SEP 15 2009


APPROVE E/K

Recorded Vol _____ Page _____

Adminsvclamur\l word\court\9-15-09 order authorizing adoption of ordinance concerning licensing of junkyards & auto wrecking & salvage yards.doc
Sandi Kubiak - cc email document ✓

A CERTIFIED COPY

ATTEST: **SEP 15 2009**
 BEVERLY B. KAUFMAN, County Clerk
 Harris County, Texas


 Deputy
 Jennifer Antionette Rahimi - Schultz

STATE OF TEXAS
COUNTY OF HARRIS

§
§
§

ORDER

On this, the SEP 15 2009, 2009, at a regular meeting of the Commissioners' Court of Harris County, sitting as the governing body of Harris County, with the following members present, to-wit:

Ed Emmett	County Judge
El Franco Lee	Commissioner, Precinct No. 1
Sylvia R. Garcia	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
Jerry Eversole	Commissioner, Precinct No. 4

And the following member(s) absent to wit: none, constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING AND ADOPTING
THE ORDINANCE OF HARRIS COUNTY, TEXAS
REGARDING LICENSING OF JUNKYARDS AND AUTOMOTIVE
WRECKING AND SALVAGE YARDS**

Commissioner Eversole introduced an order and made a motion that the same be adopted. Commissioner Lee seconded the motion for the adoption of the order. The motion carrying with it the adoption of the order prevailed by the following vote:

	Yes	No	Abstain
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the order had been duly and lawfully adopted. The order thus adopted reads as follows:

RECITALS

1. Texas Transportation Code § 396.041(b) provides that, to protect the public health, safety, or welfare, the commissioners court of a county may by ordinance require a junkyard or automotive wrecking and salvage yard to be licensed by the county.

Presented to Commissioner's Court

SEP 15 2009

APPROVE _____

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SEP 15 2009

ATTEST:
BEVERLY B. KAUFMAN, County Clerk
Harris County, Texas

Jennifer Antionette Rahimi - Schultz
Deputy
Jennifer Antionette Rahimi - Schultz

2. Texas Transportation Code § 396.041(c)(2)(B) provides that the ordinance adopted by a commissioners court of a county with a population of 3.3 million or more may impose a fee of not more than \$500.00 for the issuance or renewal of a license.
3. Texas Transportation Code § 396.041(c)(3) provides that the ordinance may condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court.
4. Texas Transportation Code § 396.041(c)(4) provides that the ordinance may establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.
5. Texas Transportation Code § 396.042 provides that, before adopting an ordinance under Texas Transportation Code § 396.041, the commissioners court must hold a public hearing at which any interested member of the public may appear and testify at the hearing about the subject of the proposed ordinance.
6. Texas Transportation Code § 396.043 provides that commissioners court must post in a public place and publish in a newspaper of general circulation, notice of the time, place, and general subject matter of the public meeting, such posting to be for 10 days preceding the date of the public hearing and such publishing being for at least once a week for the three weeks preceding the week of the public hearing.
7. Having conducted the public hearing after giving notice as required by law, the commissioners court finds that adoption of the Ordinance of Harris County, Texas Regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards, as attached to this order and incorporated herein for all purposes, is reasonable and necessary to protect the public health, safety, and desires to enter an order adopting such ordinance.

ORDER

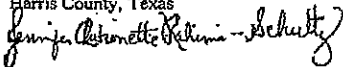
**THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF
HARRIS COUNTY, TEXAS, THAT:**

The Ordinance of Harris County, Texas Regarding Licensing of Junkyards and Automotive Wrecking and Salvage Yards, as attached to this order and incorporated herein for all purposes, is adopted, to become effective January 1, 2010.

A CERTIFIED COPY

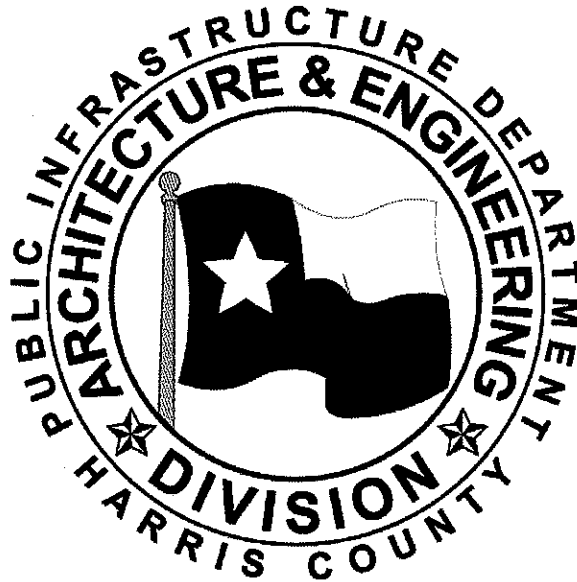
SEP 15 2009

ATTEST:
BEVERLY B. KAUFMAN, County Clerk
Harris County, Texas


Deputy

Jennifer Antionette Rahimi - Schultz

**ORDINANCE OF HARRIS COUNTY, TEXAS
REGARDING LICENSING OF JUNKYARDS AND
AUTOMOTIVE WRECKING AND SALVAGE YARDS**



AS

ADOPTED: SEPTEMBER 15, 2009

EFFECTIVE: JANUARY 1, 2010

**HARRIS COUNTY
PUBLIC INFRASTRUCTURE DEPARTMENT
ARCHITECTURE & ENGINEERING DIVISION**

**ARTHUR L. STOREY, JR., PE
COUNTY ENGINEER**

**JOHN R. BLOUNT, PE
ARCHITECTURE & ENGINEERING DIVISION DIRECTOR**

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**ORDINANCE OF HARRIS COUNTY, TEXAS
REGARDING LICENSING OF JUNKYARDS AND AUTOMOTIVE
WRECKING AND SALVAGE YARDS**

PART 1 – ADMINISTRATION AND PRELIMINARY PROVISIONS

SECTION 1.01 – AUTHORITY

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

SECTION 1.02 – AREA COVERED BY ORDINANCE

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

SECTION 1.03 – PURPOSE

The purpose of this Ordinance is to protect the public health, safety and welfare.

SECTION 1.04 - CONSTRUCTION OF ORDINANCE

This Ordinance is to be construed liberally to accomplish its purpose and to assure that Harris County complies with all State and Federal Laws.

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 Ordinance.

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 - COUNTY ENGINEER

“County Engineer” means the holder of the statutory office of County Engineer for Harris County or the employee(s) designated by the County Engineer to perform a task required by this Ordinance.

SECTION 2.04 - 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 2.05 - 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 2.06 – LICENSE

Unless the context requires otherwise, "License" shall apply to any license issued under this Ordinance, whether for an existing facility or new facility, or whether to an initial license or a renewal license.

SECTION 2.07 - 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 2.08 – PROPOSED YARD

"Proposed Yard" means the land to be occupied by a junkyard or automotive wrecking and salvage yard as specified in any license granted pursuant to this Ordinance.

SECTION 2.09 – 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 in the production of new products; or
- (c) Obtaining or storing metal or other material for a purpose described in (a) or (b) above.

SECTION 2.10 – UNINCORPORATED AREA

"Unincorporated Area" means the area in Harris County, Texas, which is not within an incorporated area of a city, town, village or within 2500 feet of the centerline of the Houston Ship Channel.

SECTION 2.11 – 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 COUNTY ENGINEER

The County Engineer is responsible for the administration of this Ordinance, issuance of licenses required by this Ordinance, enforcement of this Ordinance and maintenance of proper records.

SECTION 3.02 - RESPONSIBILITY OF OTHER OFFICIALS

Under this Ordinance, except as specifically stated otherwise, the County Engineer is responsible for all administrative decisions, determinations and duties. The County Engineer may seek and secure the assistance of other officials of Harris County in making decisions and determinations and in performing the administrative duties.

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 Harris County without a license under this Ordinance authorizing such operation.

SECTION 4.02 - EXCEPTION

This Ordinance 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.

SECTION 4.03 - APPLICATION AND APPROVAL PROCEDURE FOR LICENSE

The application for a license must be on a form prescribed by the County Engineer.

After the application is filed, the County Engineer shall review the proposed location and development to assure that all reviews or approvals required by other County regulations and requirements of the Harris County Flood Control District applicable to the junkyard or automotive wrecking and salvage yard have been met.

The County Engineer is not required to seek a final approval of the location from Commissioners' Court until after the requirements referred to above have been met.

SECTION 4.04 – LICENSE REQUIREMENTS FOR NEW FACILITY

- (a) A License for New Facility under this Ordinance is required for the following facilities, each of which being herein called a "New Facility":
 - i) Any junkyard or automotive wrecking and salvage yard that begins business operations after January 1, 2010; and
 - ii) All automotive wrecking and salvage yards that enlarge by any amount the size of the working or storage area of the junkyard or automotive wrecking and salvage yard.
- (b) A License for New Facility shall be in effect for one (1) year.
- (c) The Commissioners Court shall consider an application for a License for New Facility for a junkyard or automotive wrecking and salvage yard in the manner authorized by Texas Transportation Code, Section 396.041. For new automotive wrecking and salvage yards subject to this Section, a License for New Facility may be approved and issued only after the location requirements are satisfied.
- (d) The requirements for a License for New Facility are found in Part 6.

SECTION 4.05 - LICENSE REQUIREMENTS 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 January 1, 2010, each of which being herein called an "Existing Facility".
- (b) A License for Existing Facility shall be in effect 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 location requirements are satisfied:
 - i) The location of the junkyard or automotive wrecking and salvage yard does not create a hazard to the environment;
 - ii) If the facility is a junkyard, the location of the junkyard is not within fifty (50) feet of the right-of-way of a public street, state highway, or residence.
 - iii) If the facility is an automotive wrecking and salvage yard, that the facility was not established within 300 feet of an existing church, school, or residence, provided that the proximity requirement shall not apply to a residence owned

by the same person as the person that owns the junkyard or automotive wrecking and salvage yard.

- iv) All reviews and/or approvals required by other Harris County and Harris County Flood Control regulations applicable to the development of the site have been met.
- v) The facility must be 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 County Engineer may issue a renewal License, effective for one 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,

- (a) The location in the renewal application is the same land area and geographic location as previously approved by the Commissioners' Court for the License being renewed.
- (b) The License has not 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.

SECTION 4.07 - REQUEST FOR EXEMPTION

A person desiring an exemption from compliance with any provision of these rules shall:

- (a) File a written request with the County Engineer stating the nature of the exemption requested;
- (b) State the reason that justifies the granting of an exemption; and,
- (c) Provide any additional information that the County Engineer requests.

Upon receipt of a valid request:

- (a) The County Engineer shall notify the Commissioners' Court of the request for exemption.
- (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 Ordinance, the County Engineer shall issue licenses and renewals in accordance with this Ordinance.

SECTION 5.02 - INITIAL LICENSES

Initial licenses may be issued by the County Engineer 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.

SECTION 5.03 - LICENSES FOR INCREASE IN LAND AREA \ CHANGE IN LOCATION

Licenses for an increase in land area of the location or for a change in location or other modification may be issued by the County Engineer 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.

SECTION 5.04 - ANNUAL RENEWAL OF LICENSES

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

SECTION 5.05 - 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 at least eight feet high. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name.

SECTION 6.03 - EXCEPTION TO SCREENING REQUIREMENTS

The screening requirement 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.

SECTION 6.04 - CONSTRUCTION AND MAINTENANCE OF SCREENING

- (a) A fence shall be constructed and maintained so that the outer surface is continuous and without spaces.
- (b) The fence shall be constructed of wood, masonry, corrugated sheet metal, chain link, or a combination of those materials. Any one side of the fence may be constructed of only one of those materials.
- (c) A chain link fence must be galvanized and have wood or metal slats or strips that run through all links of the fence.
- (d) A properly constructed and maintained chain link fence with slats or strips complies with Subsection (a).
- (e) The fence must extend downward to within three inches of the ground and must test plumb and square at all times.

SECTION 6.05 - WALL OR DOOR AS PART OF FENCE

A fence may consist in whole or in part of a wall and door of a completely enclosed building on the premises if the wall or door is constructed and maintained as required for a fence.

SECTION 6.06 - GATE REQUIRED

- (a) Each opening in a fence that is necessary to permit reasonable access to a junkyard or automotive wrecking and salvage yard shall be equipped with a gate. The gate shall be constructed and maintained in accordance with the requirements for a fence.
- (b) A gate shall be closed and securely locked at all times except during normal daytime business hours.

SECTION 6.07 - DISPLAY OR WORK OUTSIDE FENCE PROHIBITED

An owner or operator of a junkyard or automotive wrecking and salvage yard or that person's agent or employee may not display, store, or work on a junked or wrecked

automotive vehicle or a part, accessory, or junk from the vehicle outside or above the fence.

SECTION 6.08 - LOCATION OF YARD

- (a) A junkyard or automotive wrecking and salvage yard may not be established within 300 feet of an existing church, school, residence, or residential subdivision, such distance being measured beginning at the wall of the church, school, or a residence (single family home, duplex, apartment, townhouse or mobile home), or the property line of a residential subdivision that is closest to the yard and ending at the fence required by this ordinance, provided that the restriction in regard to proximity to a residence does not apply in regard to a residence owned by the same person that owns the yard.
- (b) A junkyard or automotive wrecking and salvage yard may not be located within 50 feet of the right-of-way of a public street or state highway.
- (c) A junkyard or automotive wrecking and salvage yard may not be located within the 1% (100-year) floodplain or floodway.
- (d) The location of the automotive wrecking and salvage yard shall not be detrimental to the public health, safety or welfare.
- (e) The location of the automotive wrecking and salvage yard shall not create a hazard to the environment.
- (f) The location of the automotive wrecking and salvage yard shall not be within one thousand (1000) feet of any downstream lake, river, creek, tributary or pond. The term "pond" shall not refer to a detention pond.

Compliance with these minimum standards does not guarantee a license will be issued. Issuance of a license is conditioned upon the operation of the automotive wrecking and salvage yard ONLY at a location approved by Commissioners Court.

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 ordinance, the County Engineer 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 ordinance.

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 shall be automatically revoked.

SECTION 7.03 - NOTICE OF REVOCATION

If the license of a junkyard or automotive wrecking and salvage yard is suspended or revoked pursuant to this Ordinance, the County Engineer shall give written notice of that revocation to the license holder via certified mail, return receipt requested to the business address given by the license holder in its application.

SECTION 7.04 - HEARING ON REVOCATION

The applicant or current holder of a revoked license may have a hearing before the Commissioners' Court on the revocation, if a request for a hearing is made in writing to the County Judge within 30 days of receipt of notice of revocation. The hearing on the revocation shall be set by the County Judge as soon as practicable before either the County Judge or a Hearing Examiner appointed by the County Judge. After the hearing, the County Judge or the appointed Hearing Examiner shall issue a decision either upholding the revocation or reinstating the license. If such a request for a hearing is not made in writing to the County Judge within 30 days of receipt of the notice of revocation, the applicant shall not be entitled to seek reinstatement of the license, and further operation will require application and approval of a new license in the manner required by this Ordinance for licensing a New Facility.

PART 8 - ENFORCEMENT

SECTION 8.01 – ENFORCEMENT

A person commits an offense if the person operates a junkyard or automotive wrecking and salvage yard in violation of this Ordinance.

Transportation Code §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.

A junkyard or automotive wrecking and salvage yard which is not screened or which is operated at a location other than that approved by commissioners court may have its license suspended or revoked.

A person is entitled to an injunction to prohibit a violation or threatened violation of this ordinance.

Nothing in these regulations should be construed as limiting authority to pursue other remedies and punishments that may be available under law for violations of these regulations that are violations of other laws or for violations of other laws or regulations by a person subject to these regulations.

SECTION 8.02 - VIOLATION OF CONDITIONS OF ORDINANCE

Any person having knowledge of a violation of this Ordinance may file a complaint with the County Engineer.

PART 9 - FORMS AND RECORDS

Forms to be used in the administration of this Ordinance shall be promulgated by the County Engineer.

PART 10 – FEES

Upon approval of an application for issuance, renewal or modification of a license in accordance with the terms and conditions of this Ordinance, a non-refundable fee of \$500 is required before issuance and effectiveness of the license. Each license or annual renewal fee received shall be deposited to the general fund in accordance with Texas Transportation Code § 396.041(d).

PART 11 – SEVERABILITY AND CONSTRUCTION

The provisions of this Ordinance are severable. If any word, phrase, clause, sentence, section, provision, or part of this Ordinance 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 Ordinance would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of this Ordinance 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.