

DR 77-11 - Possible Amendment to  
the Zoning Ordinance Re: Special  
Permits for Salvage Yards and  
Scrap Processors.

from: NSC date: \_\_\_\_\_

admin. adv. plans cur. plans social graphics

- |                                    |                                      |   |  |                                      |
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|                                    | <input type="checkbox"/> mcfadden    |   | <input type="checkbox"/> handle        | <input type="checkbox"/> library     |

remarks: My first thought was to treat it like a regular & possible Warner - ie universal negotiation. You may want to confer w/ legal dept about the probability of application. Request negotiation from law on yark, national etc. Checklist done

**THE CITY OF WICHITA**  
**OFFICE OF CITY MANAGER**

**DATE** March 17, 1977



**TO** Robert A. Lakin, Director of Planning  
**FROM** E. H. Denton, City Manager

**SUBJECT** Screening of Industrial Areas

During the March 15, 1977, City Commission consideration of screening requirements for a special-use permit for a scrap processing operation, the Commission requested a future agenda item to place some screening requirements on heavy industrial uses in the City. You suggested that such a requirement may be more appropriate in the form of a special-use permit rather than an amendment to the zoning ordinance.

Please accept responsibility for preparing a report to the City Commission to place such screening requirements on industrial uses and an appropriate regulatory vehicle for implementing the screening requirement. By copy of this memorandum, the Superintendent of Central Inspection is requested to provide you every necessary assistance.

Although the Commission directive did not request that any proposed screening regulation be referred first to the Metropolitan Area Planning Commission for recommendation, you may want to seek the Planning Commission's recommendation prior to City Commission consideration.

E. H. Denton  
City Manager

EHD/ps

cc: Robert Feldner, Superintendent of Central Inspection  
Ray W. Bruggeman, Director of Public Works

002304

*Jyck*

from: LYTLB date: 3-17

admin. adv. plans cur. plans social graphics

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*note Selvia  
Commit.*

- |  |   |
|--|---|
| <input type="checkbox"/> all staff     | <input checked="" type="checkbox"/> information |
| <input type="checkbox"/> comment       | <input type="checkbox"/> files                  |
| <input type="checkbox"/> note & return | <input type="checkbox"/> signature              |
| <input type="checkbox"/> handle        | <input type="checkbox"/> library                |

remarks:

*Sent to mgrs 3-17  
Possibly ought to hold off C.C. until  
we have something on screening  
for same.*

WICHITA-SEDGWICK COUNTY

DATE

March 16, 1977

**METROPOLITAN AREA PLANNING DEPARTMENT**

TO E. H. Denton, City Manager

FROM Robert A. Lakin, Director of Planning

SUBJECT Possible amendment to the zoning ordinance  
Re: Special permits for salvage yards and  
scrap processors.

Attached hereto is a delineated copy of a possible amendment to the zoning ordinance related to the establishment of salvage yards, scrap processors and similar operations in the 'E' Light Industrial district by special permit. This possible amendment was prepared as a joint effort by representatives of the Planning Department, Law Department and the Central Inspection Division.

BACKGROUND

Although the provision for requiring special permits for such uses in the light industrial districts has been in the zoning ordinance for at least 45 years, very few special permits have been granted by the City Commission. A large majority of such uses have been annexed into the community and are thus continuing as nonconforming uses.

As a matter of policy (at least the past 15 years) when an application for a special permit was filed with the City Commission, it has been referred to the Planning Commission for a recommendation. In order to expedite an application, it is proposed to amend Section 28.04.184 to include the provision that an application first be filed and a hearing held before the Planning Commission and a recommendation be made to the City Commission.

The Department of Law has experienced some difficulty with this provision of the ordinance due to the court's interpretation of what constitutes a salvage or junk yard as compared to a used building materials storage yard. There has also been a problem with the terms used in the regulation related to a main thoroughfare or business street. These terms have been in the ordinance for over 45 years and is difficult to determine the intent as related to the terminology of the designations used for streets today.

Uses permitted in the 'C' Commercial and the 'D' Central Business districts are also permitted in 'E' Light Industrial district. Junk, used material, auto wrecking, salvage yards, etc. are prohibited in each of these districts except where such activities

E. H. Denton, City Manager  
March 16, 1977  
Page 2

are conducted entirely within an enclosed building. It is proposed to change the wording of Section 28.04.184 to set forth that such operations not conducted entirely within an enclosed building be required to file for a special permit.

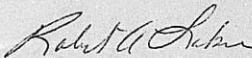
SUMMARY

Under Section 28.04.120 B (Uses permitted in the 'E' light industrial district.) paragraph (g) would be amended to permit only new material storage yards. Also paragraph (x) would be added for clarification of when such uses would be permitted by special permit.

Section 28.04.184 is proposed to be amended to require an application to be filed with the Planning Commission for a hearing and recommendation prior to being forwarded to the City Commission for final action. The language is also changed for clarification of location and requirements.

RECOMMENDATION

If the proposed amendment is reasonably satisfactory with the City Commission, forward the proposal, along with comments, to the Metropolitan Area Planning Commission for their recommendation after a public hearing as required by law.

  
Robert A. Lakin  
Director of Planning

RAL:GEL:rme  
Attachment

cc: John Dekker, Director of Law  
Ray Bruggeman, Director of Public Works  
Robert B. Feldner, Superintendent of Central Inspection

Additions underlined  
Deletions ~~marked thus~~

Proposed Amendment to the  
Zoning Ordinance of the  
City of Wichita, Kansas

It is proposed to amend Sections 28.04.120 and 28.04.184 to set forth the procedures for the authorization of auto wrecking, salvage yards and similar operations when such are to be located in the "E" Light Industrial district by special permit.

Section 28.04.120 B-1-(g) shall be amended as follows:

(g) New building materials storage yard.

Section 28.04.120 B-1 shall be amended by adding the following to the uses permitted:

(x) Uses listed in Section 28.04.184, only when approved in the manner therein provided.

Section 28.04.184 shall be amended to read as follows:

28.04.184 Exceptions to use regulations - Auto wrecking and salvage yards. Auto wrecking, salvage yards, used material yards, storage or bailing of waste or scrap paper, rags, scrap metals, bottles or junk, scrap processors and other similar uses when such activities are not conducted entirely within an enclosed building, may be authorized in in the "E" light industrial districts by the governing body under a special permit, provided that such operation is not on an arterial or expressway as designated a main thoroughfare or business street, and in on Map 13A of the transportation plan element of the comprehensive plan; and provided further an application shall first be submitted to the planning commission who shall hold a hearing and make a recommendation on the application. Any such operation approved shall be the opinion of the governing body will not adversely affect the character of the neighborhood, is enclosed by a metal or wood fence not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence; in the opinion of the planning commission such operation will not adversely affect the character of the neighborhood; all waste paper, rags or other materials that can be scattered by the wind shall be kept within an enclosed building; subject to any other requirements which may be specified by the governing body, and that all waste paper, rags or materials that can be scattered by the wind shall be kept in a building suitable for that purpose, and provided further, that the planning commission and the governing body board of commissioners may impose such additional special conditions to protect the health, safety and welfare of the neighborhood as the they board of commissioners may deem proper, including (but not limited to), the posting of a performance bond.

March 16, 1977

E. H. Denton, City Manager

Robert A. Lakin, Director of Planning

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E. H. Denton, City Manager  
March 16, 1977  
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Robert A. Lakin  
Director of Planning

RAL:GEL:rme  
Attachment

cc: John Dekker, Director of Law  
Ray Bruggeman, Director of Public Works  
Robert B. Feldner, Superintendent of Central Inspection

Additions underlined  
Deletions marked thus

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from: \_\_\_\_\_ date: \_\_\_\_\_

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	<input type="checkbox"/> wilson	<input type="checkbox"/> note & return	<input type="checkbox"/> signature	
	<input type="checkbox"/> mcadden	<input type="checkbox"/> handle	<input type="checkbox"/> library	

remarks: *✓ here in another one. The issue is that 28.04 does not reproduce the PC to hold hearing & give notice; that Miss Tompa is required to file a personal application to CID which they have to turn down. That should be*

*\* be cut out of the process.*

**THE CITY OF WICHITA**

**OFFICE OF CITY MANAGER DATE February 18, 1977**

Robert A. Lakin, Director of Planning  
John Dekker, Director of Law

**TO** Robert Feldner, Superintendent of Central Inspection

**FROM** E. H. Denton, City Manager

**SUBJECT** Special Permits



Discussion held during the City Commission meeting of February 15, 1977, regarding the application of Thomas C. Whitney for a scrap processor license in an "E" zoning district indicated a need for review of Section 28.04.184 of the City Code.

I am asking that Mr. Lakin convene a meeting of the addressees to review the provisions of the ordinance and recommend any changes that may be deemed desirable, such as intermediate hearing by the MAPC or the Board of Zoning Appeals.

Your report is requested to reach this office by March 17, 1977.

E. H. Denton  
City Manager

EHD/sw

cc: Ray W. Bruggeman, Director of Public Works

**THE CITY OF WICHITA**

OFFICE OF

CITY MANAGER

DATE August 30, 1978

TO Robert A. Lakin, Director of Planning

FROM Robert G. Finch, Deputy City Manager

SUBJECT Screening Requirements for  
Salvage Yards

On August 29, 1978, the City Commission approved your recommendations for changes in the requirements for screening of salvage yards.

In addition the Commission asked that the staff work with the owners of salvage yards to allow adequate time to come into compliance. In this regards it was suggested that staff develop a set of standard specifications for screening fences and offer the City's services in the mass acquisition of needed fencing materials and installation.

Please accept responsibility for the coordination of these activities.

*Ray Trail*  
for Robert G. Finch  
Deputy City Manager

RGF/sw

cc: Russell L. Brenner, Director of Administration  
George Anderton, Purchasing Manager



*Lytle - talks to me on the extent to take screening. i.e. contractor, the lumber yards. I think we want to limit it to the real necessities, i.e. that produce economic hardship, i.e. m'ls, Salvage, (paper, furniture, rubber etc), auto etc*

*RGF*

WICHITA-SEDGWICK COUNTY

DATE

August 1, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO John Dekker, Director of Law  
FROM Glen E. Lytle, Special Assistant for Zoning  
SUBJECT Screening Requirements for Salvage Yards.

The planning department has been assigned the responsibility for review and recommendations for possible changes to the regulations for screening of salvage and junk yards. In reviewing the administration of the licensing provisions for Motor Vehicle Wrecking (Chapt. 3.48) with Feldner and Donnelly of Central Inspection, this department would like an opinion from the Department of Law on each of the following:

1. Can the requirements of Chapt. 3.48 related to fencing be required on any new auto salvage yard that might be annexed into the City of Wichita?
2. Should a licensed Motor Vehicle Wrecking yard fail to maintain a fence that was required prior to receiving a license, should the license be withheld until the fence is repaired?
3. If a Motor Vehicle Wrecker installs a fence that is not satisfactory to the Board of City Commissioners, what action may the City Commission take under the present ordinance to require a different fence? Can this be reviewed at each renewal date?
4. Should the Board of Commissioners decide that all obnoxious or nuisance type uses be required to be screened from public view, under what authority would the City adopt such regulations?

I have informally discussed this matter with Mr. Kuhn, but he indicated that a written request should be made for assignment.

APPROVED BY:

Glen E. Lytle  
Special Assistant  
for Zoning

Robert A. Lakin  
Director of Planning

used cars must file each year with the central inspection division of the public works department of the city at the time of purchasing the license the number of the state dealer's tag assigned to them for their use. (Ord. No. 28-621, § 13.)

**Chapter 3.48**

**MOTOR VEHICLE WRECKING**

**Sections:**

- 3.48.001 Definitions.
- 3.48.010 License required.
- 3.48.020 Application for license—Issuance.
- 3.48.030 Fee—Separate license for each place of business.
- 3.48.040 Transfer of license prohibited.
- 3.48.050 Regulations.

**3.48.001 Definitions.** The term "motor vehicle wrecking," shall mean anyone engaged in the business of buying, acquiring or dealing in motor vehicles of a type usually licensed by the state of Kansas, and which motor vehicles are intended to be wrecked, dismantled or disassembled; or anyone who maintains or uses any building, premise or place to work, dismantle or disassemble any such motor vehicle, and who possesses for sale, offers to sell, or sells any part of any motor vehicle wrecked, dismantled, or disassembled at such building, premise or place; or anyone who stores, or who causes, suffers or allows to remain, on any lot or parcel of land, three or more motor vehicles of a type usually licensed under the laws of the state of Kansas, and from which parts have been, or are to be, removed, or which for more than thirty days have not been capable of operation under their own power. (Ord. No. 27-925, § 1.)

**3.48.010 License required.** It shall be unlawful for any person to engage in the operation of a motor vehicle wrecker business within the city, unless such person shall have procured from the city a license to engage in such business. No person shall be granted a license to engage in such business or occupation unless such applicant shall possess, control, use or have the use of a premise where the business can be lawfully conducted and shall have an office at such location. (Ord. No. 27-925, § 2.)

**3.48.020 Application for license—Issuance.** Upon the filing with the city treasurer of an application for a license to engage in the business or occupation regulated by this chapter, it shall be the duty of the city treasurer to cause the application to be investigated, and if the facts therein stated are true and it shall be shown that the applicant is qualified as required by this chapter, he shall approve such application and issue a license to the applicant. (Ord. No. 27-925, § 3.)

3.48.030—3.48.050 BUSINESS—REGULATIONS AND LICENSING

**3.48.030 Fee—Separate license for each place of business.** At the time of the granting of the license required by this chapter, there shall be paid to the city treasurer the sum of fifty dollars, payable semi-annually on April first and October first. Each licensee shall be required to procure one license for each place of business, operated by such person within the corporate limits of the city. (Ord. No. 27-925, § 4.)

**3.48.040 Transfer of license prohibited.** No license issued under the terms of this chapter shall be transferable. (Ord. No. 27-925, § 5.)

**3.48.050 Regulations.** Each person engaged in the business as a motor vehicle wrecker shall comply with the following regulations:

**BUILDING AND FENCE REQUIREMENTS.** The activities of a motor vehicle wrecker shall be conducted entirely within an enclosed building; provided, that should the property so used exceed an area of fifteen thousand square feet, the board of commissioners may grant permission to enclose the property with a fence or wall, and no motor vehicle or part thereof shall be parked, stored or displayed on the outside of such building, fence or wall. Fencing shall conform in all respects to the zoning ordinance when applicable. Solid fencing requirements may be waived by the board of commissioners for nonconforming uses, when the property is not adjacent to residential zoning districts, and the property is enclosed by a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top completely enclosing the business operation.

Premises which may not conform with the building or the fence requirement of this section, but at which the business of a motor vehicle wrecker is being conducted on November 13, 1964, shall be brought into conformity with this section within ninety days after such date.

**REGISTER.** Every motor vehicle wrecker shall keep a bound "book of records" in which, at the time of acquiring or purchasing any motor vehicle, he shall record in ink a full and accurate record of such transaction, which record shall at all times be accessible to the police department and shall include the following:

1. The date of purchase.
2. The name and address of the person from whom the same was purchased.
3. The make and type of car, truck, tractor or accessory.
4. The number of the engine and license number of automobile or truck purchased or the identifying number of the accessories purchased.

A copy of each entry into the "book of records" shall be furnished to the police department each month. (Ord. No. 27-925, § 6.)

Additions underlined  
Deletions marked thus

Proposed Amendment to the  
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(x) Uses listed in Section 28.04.184, only when approved in the manner therein provided.

Section 28.04.184 shall be amended to read as follows:

28.04.184 Exceptions to use regulations - Auto wrecking and salvage yards. Auto wrecking, salvage yards, used material yards, storage or bailing of waste or scrap paper, rags, scrap metals, bottles or junk, scrap processors and other similar uses when such activities are not conducted entirely within an enclosed building, may be authorized in in the "E" light industrial districts by the governing body under a special permit, provided that such operation is not on an arterial or expressway as designated a main thoroughfare or business street, and in on Map 13A of the transportation plan element of the comprehensive plan; and provided further an application shall first be submitted to the planning commission who shall hold a hearing and make a recommendation on the application. Any such operation approved shall be the opinion of the governing body will not adversely affect the character of the neighborhood; is enclosed by a metal or wood fence not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence; in the opinion of the planning commission such operation will not adversely affect the character of the neighborhood; all waste paper, rags or other materials that can be scattered by the wind shall be kept within an enclosed building; subject to any other requirements which may be specified by the governing body, and that all waste paper, rags or materials that can be scattered by the wind shall be kept in a building suitable for that purpose, and provided further, that the planning commission and the governing body board of commissioners may impose such additional special conditions to protect the health, safety and welfare of the neighborhood as the they board of commissioners may deem proper, including (but not limited to), the posting of a performance bond.

*Approved*

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE August 17, 1978



TO GLEN E. LYTLE, Special Assistant for Zoning

FROM H. R. KUHN, Assistant City Attorney

SUBJECT Screening requirements  
for salvage yards

Your request of August 1, 1978 for an opinion concerning the above noted matter was handed to me for review and response. This is to generally confirm what was discussed with you and Mr. Lakin on August 15th.

In answer to the questions posed by you, it is the opinion of the Department of Law that:

1. The fencing requirements of the City Code to which you refer can be applied to new auto salvage yards that might be annexed into the City of Wichita. Of course, the application of the requirements must be uniform as applied to both existing as well as any new salvage yards.

2. A failure to properly maintain a fence would justify the withholding of the renewal license until compliance has been achieved. The basic purpose of "licensing" requirements on a regular basis is to insure compliance with the Code provisions.

In this connection, it would be my recommendation that reasonable notice be given any licensee of the known violations and a warning of the intent to withhold the renewal license unless the Code requirements are satisfied.

3. This question presents a somewhat more difficult problem. You will recall that we discussed the ramifications of this problem and concluded that more definitive standards should be developed under which the City Commission could then act. As I understand the situation there are presently all types of fencing employed many of which have been approved in the past. Approval of a particular type of fencing at the time of the issuance of a license is one thing. A failure to properly maintain such fencing is another. Again, the matter can be reviewed at the license renewal date. If more definitive standards are adopted as suggested, then situations could arise where a different type of fencing might be required.

The fourth question presented by you cannot be answered with any degree of certainty at this time. The Courts are divided on

Glen E. Lytle, Special Assistant for Zoning  
August 17, 1978  
Page 2.

whether or not solid screening or fencing is a reasonable exercise of the police powers from which the authority would have to come. To justify screening from public view the action would have to be based on the public interests of health, safety, morals and general welfare. The Courts of some states have permitted such screening requirements and have justified the same on considerations other than aesthetics alone. Other Courts, on the other hand, have approached the question on considerations of aesthetics primarily and have held such requirements to be unreasonable.

In this connection the provisions of Chapter 68 K.S.A. (Highway Beautification Act) may have considerable influence. The state statute makes it rather clear that the Department of Transportation may require screening or fencing from public view of all junk yards not located in industrially zoned districts. Much will depend upon the type of rules and regulations that have been adopted by the Secretary of Transportation in this connection. The statute covers those junk yards located in cities as well as elsewhere.

It is my understanding that you have requested from the Department of Transportation the rules and regulations which the State Board may have adopted under the statute. After you have received the same we can review them to determine what additional local action the City of Wichita may want to take. K.S.A. 68-2210 specifically contemplates that local ordinances, regulations or resolutions may be more restrictive than the state statute.

In conclusion, I would again suggest waiting until we have in hand the rules and regulations of the Department of Transportation and their licensing procedures before making any final determination as to what should be done locally.

Respectfully submitted,

  
H. R. KUHN  
ASSISTANT CITY ATTORNEY

HRK:mb  
cc: John Dekker

WICHITA-SEDGWICK COUNTY

DATE

August 1, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO John Dekker, Director of Law  
FROM Glen E. Lytle, Special Assistant for Zoning  
SUBJECT Screening Requirements for Salvage Yards.

The planning department has been assigned the responsibility for review and recommendations for possible changes to the regulations for screening of salvage and junk yards. In reviewing the administration of the licensing provisions for Motor Vehicle Wrecking (Chapt. 3.48) with Feldner and Donnelly of Central Inspection, this department would like an opinion from the Department of Law on each of the following:

1. Can the requirements of Chapt. 3.48 related to fencing be required on any new auto salvage yard that might be annexed into the City of Wichita?
2. Should a licensed Motor Vehicle Wrecking yard fail to maintain a fence that was required prior to receiving a license, should the license be withheld until the fence is repaired?
3. If a Motor Vehicle Wrecker installs a fence that is not satisfactory to the Board of City Commissioners, what action may the City Commission take under the present ordinance to require a different fence? Can this be reviewed at each renewal date?
4. Should the Board of Commissioners decide that all obnoxious or nuisance type uses be required to be screened from public view, under what authority would the City adopt such regulations?

I have informally discussed this matter with Mr. Kuhn, but he indicated that a written request should be made for assignment.

APPROVED BY:

Glen E. Lytle  
Special Assistant  
for Zoning

FORNELL A. LARSEN  
Director of Planning

E.H. Denton, City Manager

Robert A. Lakin, Director of Planning

Screening Requirements for Salvage Yards

As per instructions of the City Commission on July 11, 1978 the following is a review of the code requirements for the screening of salvage yards and junk yards.

SUMMARY OF SCREENING REQUIREMENTS.

The zoning ordinance regulates the location of the establishment of automobile wrecking, junk yards, salvage, used material, paper, scrap, bottles or rags, and bailing or storage of such materials in the following manner:

- "LC" - Light Commercial District. None of the above permitted.
- "C" - Commercial District. Auto wrecking yard not permitted. All other uses listed above would be permitted if located within an enclosed building.
- "D" - Central Business District. All uses listed above would be permitted if located within an enclosed building.
- "E" - Light Industrial District. All uses listed above would be permitted if located within an enclosed building.

All such uses may be permitted outside of enclosed buildings by special permit by the Governing Body providing such use is not on a main thoroughfare or business street, and in the opinion of the Governing Body it will not adversely affect the neighborhood.

Such uses permitted are required to be enclosed by a metal or wood fence not less than eight feet in height with openings not in excess of 5% of the area of such fence. Any material that can be scattered by the wind shall be kept inside a building. The Governing Body may also impose such additional conditions to protect the health safety and welfare of the neighborhood.

"F" - Heavy Industrial District. All above uses permitted without limitations.

The zoning ordinance also requires the screening of new commercial or industrial uses when adjacent to residentially zoned properties.

Many of the existing salvage (auto wrecking) yards were annexed into the City as nonconforming uses. Therefore, unless otherwise regulated may continue without having to provide fences or be inside a structure. In addition to the zoning regulations the City code also provides for the licensing on an annual basis motor vehicle wrecking yards, scrap processors, second hand dealers and pawn brokers.

Chapter 3.48 requiring a license for Motor Vehicle Wrecking <sup>businesses</sup> sets forth building and fence requirements as follows:

- ✓ The activities of a motor vehicle wrecker shall be conducted entirely within an enclosed building; provided, that should the property so used exceed an area of fifteen thousand square feet, the board of commissioners may grant permission to enclose the property with a fence or wall, and no motor vehicle or part thereof shall be parked, stored or displayed on the outside of such building, fence or wall. Fencing shall conform in all respects to the zoning ordinance when applicable. Solid fencing requirements may be waived by the board of commissioners for nonconforming uses, when the property is not adjacent to

residential zoning districts, and the property is enclosed by a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top completely enclosing the business operation.

Permits which may not conform with the building or the fence requirement of this section, but at which the business of a motor vehicle wrecker is being conducted on November 13, 1964, shall be brought into conformity with this section within ninety days after such date."

The existing Charter ordinance requiring a license for pawnbrokers, secondhand dealers, and scrap processors (Junk dealers) does not have any requirements for fencing or screening of the uses from adjacent property.

Attached to this report is a response from the Department of Law regarding the application of the existing regulations and under what authority changes or additional requirements for screening might be adopted.

#### ANALYSIS OF EXISTING REGULATIONS

In reading the ordinance and discussing the problem with Central Inspection, License (Treasurer Office) and Law, the following observation are offered:

1. The requirements of the zoning ordinance are not retroactive and do not apply to many of the auto-wrecking yards, salvage yards etc. that have been annexed into the city and are nonconforming uses.
2. The standards for screening fences <sup>within the zoning ordinance</sup> which are also referred to by the licensing ordinance have produced a variety of types of fencing. Some fencing constructed under the provisions of these ordinances have been accepted as in compliance with the ordinances by Central Inspection even though its appearance is no better than the material that is being screened by the fence.

3. The terms referred to as main thoroughfare or business street are not defined in the ordinance and may be unrealistic as to limiting the location of these types of businesses.
4. Solid fencing requirements have been waived by the previous Governing Bodies for 12 of the 20 automobile wrecking locations under the licensing provision. The majority of these waivers have been for nonconforming uses or those located in the "F" Heavy Industrial District.

If fencing is desired, the existing licensing ordinance can be used to accomplish screening. As the license comes up for renewal, if conditions prevail (such as new development, poor condition of wrecking yard) we are of the opinion that the previous waivers may be revoked and fencing required. This would be the solid fence not to exceed 5% opening referred to in the zoning ordinance. Without further revisions to the City Code, it is doubtful that additional conditions as to material, color, paint, etc could be required.

Of those who have been required to have a fence, many have not maintained it. Enforcement is a continuing problem, for Central Inspection. Even when blown down and required to be fixed up, they often are back down after the next wind. In summary, enforcement has been difficult and frankly not very intensive or consistent over time.

#### RECOMMENDATION

1. Establish screening standards for all types of uses such as automobile wreckers, scrap processors, and other similar outdoor storage and sales areas and require that an annual review of the condition of the screening fence be made before the renewal of the license. The standard should include the type of fence acceptable to the Commission. Such screening type fence should be adjacent to any

5.

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public right-of-way and should be returned along the side property line a reasonable distance for visual effect. The remainder of the property would then be fenced with chain link or woven wire for security purposes or be required to be solid screening as determined by the Governing Body (based on need due to visibility from public roadways or buildings and/or the type and quality of adjoining development either residential or industrial).

2. Amend the zoning ordinance to establish the same standards for screening of all new uses falling into the licensing requirements as previously stated and also require all outdoor storage areas used for wrecked vehicles, contractors equipment and supplies, used building material, scrap processing operations and similar businesses.
3. Eliminate the requirement that new auto wrecking and scrap processors may not be located on a main thoroughfare or business street and permit such uses by the Board of Zoning Appeals subject to screening requirements after notification of adjacent property owners and a public hearing.
4. Review all existing screening fences prior to relicensing, and require replacement or improvements that would be acceptable to the Governing Body.

---

Robert A. Lakin  
Director of Planning

RAL:GEL:gb  
Attachment

cc: Ray Briggman Dir of PW  
John Reiter, Dir of Law  
Bill Zeldner, Dir of C.I.  
Ralph Kline, City Treasurer.

~~DOT~~ ~~Dobbins~~

To: E. H. Denton, City Mgr.  
Fr: Robt. A. Gahin, Dir of Planning

Subject: Screening Requirements for Salvage Yards.

As per instructions of the City Commission on July 11, 1978 the following is a review of the code requirements for the screening of salvage yards and junk yards.

#### SUMMARY OF SCREENING REQUIREMENTS.

The zoning ordinance regulates the location of the establishment of automobile wrecking, junk yards, salvage, used material, paper, scrap, bottles or cans, and bailing or storage of such material in the following manner:

- "LC" - Light Commercial District. - None of the above permitted.
- "C" - Commercial District -  
Auto wrecking yard not permitted.  
all other uses listed above would be permitted if located within an enclosed building.
- "D" - Central Business District -  
All uses listed above would be permitted if located within an enclosed building.
- "E" - Light Industrial District -  
All uses listed above would be permitted if located within an enclosed building.  
All such uses may be permitted <sup>outside of enclosed buildings</sup> by special permit by the Planning Body providing such use is not on a main thoroughfare

or business street, and in the opinion of the Governing Body it will not adversely affect the neighborhood. Such uses permitted are required to be enclosed by a metal or wood fence not less than eight feet in height with openings not in excess of 5% of the area of such fence. Any material that can be scattered by the wind shall be kept inside a building. The Governing Body may also impose such additional conditions to protect the health, safety and welfare of the neighborhood.

"F" - Heavy industrial district. -  
All ~~other~~ <sup>uses</sup> permitted without limitations.

insult \*

in addition to H

insult \*

The zoning ordinance also requires the screening of <sup>new</sup> commercial or industrial uses ~~when~~ adjacent to residentially zoned properties for any ~~new~~ <sup>new</sup> ~~uses~~ <sup>uses</sup>.

# -> H

motor vehicle  
displayed on the outside of such  
fencing shall conform in all respects to the zoning ordinance when applicable. Solid fencing requirements may be waived by the board of commissioners for nonconforming uses, when the property is not adjacent to residential zoning districts, and the property is enclosed by a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top completely enclosing the business operation.  
Premises which may not conform with the building or the fence requirement of this section, but at which the business of a motor vehicle wrecker is being conducted on November 13, 1964, shall be brought into conformity with this section within ninety days after such date.

2.

on business street, and in the opinion of the Governing Body it will not adversely affect the neighborhood. Such uses permitted are required to be enclosed by a metal or wood fence not less than eight feet in height with openings not in excess of 5% of the area of such fence. Any material that can be scattered by the wind shall be kept inside a building. The Governing Body may also impose such additional conditions to protect the health, safety and welfare of the neighborhood.

"F" - Heavy industrial district. -  
All ~~above~~ <sup>uses</sup> permitted without limitations.

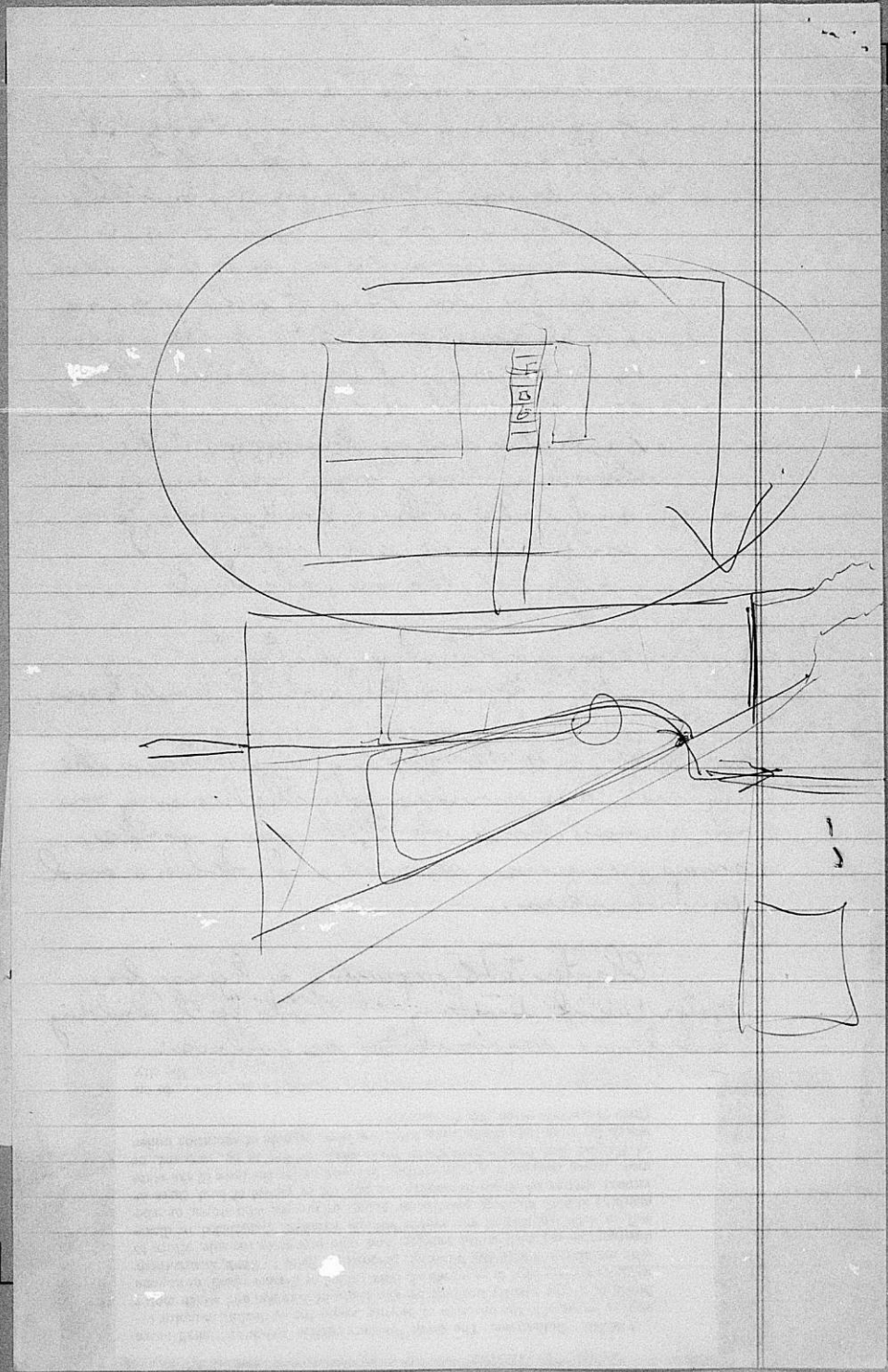
insult \*

In addition to the zoning regulations the City Code also provides for the licensing on an annual basis motor vehicle wrecking yards, scrap processors, secondhand dealers and pawn brokers.

Chapter 3.48 requiring a license for Motor Vehicle Wrecking sets forth building and fence requirements as follows:

" The activities of a motor vehicle wrecker shall be conducted entirely within an enclosed building; provided, that should the property so used exceed an area of fifteen thousand square feet, the board of commissioners may grant permission to enclose the property with a fence or wall, and no motor vehicle or part thereof shall be parked, stored or displayed on the outside of such building, fence or wall. Fencing shall conform in all respects to the zoning ordinance when applicable. Solid fencing requirements may be waived by the board of commissioners for nonconforming uses, when the property is not adjacent to residential zoning districts, and the property is enclosed by a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top completely enclosing the business operation.

Premises which may not conform with the building or the fence requirement of this section, but at which the business of a motor vehicle wrecker is being conducted on November 13, 1964, shall be brought into conformity with this section within ninety days after such date. "



The <sup>existing</sup> Charter ordinance requiring a license for pawnbrokers, secondhand dealers and scrap processors (junk dealers) does not have any requirements for fencing or screening of the uses from adjacent property.  
\* Dist #6

### Analysis of PROBLEMS WITH EXISTING REGULATIONS

In ~~re~~ reading the ordinances and discussing the problems with \*

1. The requirements of the zoning ordinance are not retroactive and do not apply to many of the auto wrecking yards, salvage yards etc. that have been annexed into the city and are nonconforming uses.
2. The standards <sup>for screening fences</sup> within the zoning ordinance which are <sup>also</sup> referred to by <sup>the licensing ordinance</sup> Chapter 5.10 have produced a variety of types of fencing. Some fencing constructed under the provisions of these ordinances have been accepted as in compliance <sup>by Central Inspection</sup> with the ordinance even though the aesthetic appearance is no better than the material that is being screened by the fence.
3. The terms <sup>referred to as</sup> main thoroughfare or business street are not defined in the ordinance and <sup>are</sup> unrealistic as to limiting the location of these types of businesses.
4. Solid fencing requirements have been waived by the <sup>Provisions</sup> Governing Body <sup>for</sup> 12 of the 20 automobile wrecking <sup>locations</sup> under the licensing provision. The majority of these waivers have been for nonconforming uses or those located in the "F" Heavy Industrial District. # 3rd

\* Central Inspection, License (Truman Yard) and Law, the following observations are offered:

insert  
#6

\*

Attached to this report is a response from the Department of Law regarding the application of the existing regulations and <sup>provisions</sup> what authority changes or additional requirements for screening might be adopted.

## RECOMMENDATION

\* (based on need to direct visibility from public meetings or buildings, etc. to the type and quality of zoning development either residential or industrial)

1. Establish screening standards for all types of uses such as automobile wreckers, scrap processors, and other similar outdoor storage and sales areas and require that an annual review of the condition of the screening fence be made before the renewal of the license. ~~These~~ <sup>Standards should be</sup> ~~standards~~ include the type of fence acceptable to the Commission, and ~~to require~~ <sup>such</sup> a screening type fence <sup>should be</sup> adjacent to any public right-of-way and should be returned along the side property line a reasonable distance for visual effect. The remainder of the property would then be fenced with chain-link or woven wire for security purposes or be required to be solid screening as determined by the ~~Zoning Body~~ <sup>Zoning Board</sup>.
2. Amend the zoning ordinance to establish the same standards for screening of all new uses falling into the licensing requirements as previously stated and also require all outdoor storage areas used for wrecked vehicles, contractors equipment and supplies, used building material, scrap processing operations and similar businesses.
3. Eliminate the requirement that <sup>new</sup> auto wrecking and scrap processors may not be located on a main thoroughfare or business street and permit such uses by the Board of Zoning Appeals subject to screening requirements after notification of

5.  
adjacent property owners and a  
public hearing.

4. Review all existing screening fences  
prior to relicensing, and require  
replacement ~~or~~ improvements that would be  
acceptable to the Governing Body.

Robt A. Talen  
Dir of Phy

12/21/41  
5  
5/1/41



# TP <sup>(auto wrecking)</sup> many of the existing salvage yards were annexed into the City as non conforming uses. Therefore, unless otherwise regulated may continue ~~to~~ without having to provide fences <sup>or</sup> be inside a structure, ~~or similar requirements~~

after # 10 on P3

TP If fencing is desired, the existing licensing ordinance can be used to accomplish fencing. At the license renewal, if conditions prevail (such as new development, poor condition of wrecking yard) we are of the opinion that the previous waiver may be revoked & fencing required. This would be the solid fence not to exceed 5' No opening referred to in the zoning ordinance. Without further revisions to the City Code, it is doubtful that additional conditions as to material, color, paint, etc could be required.

Of those who have been required to have a fence, many have not maintained it. Enforcement is a continuing problem for Central Inspections. Even when blown ~~down~~ down & required

to be fixed up, they often are back down after the next  
wind. In summary, enforcement has been difficult and  
frankly not very entensive or constant over time.

THE CITY OF WICHITA  
OFFICE OF PLANNING DEPARTMENT

DATE October 20, 1976



TO Robert A. Lakin, Director of Planning  
FROM H. R. Kuhn, Assistant City Attorney

SUBJECT Adoption of New Zoning Ordinance

I've been asked to review, research and comment on the contents of your memorandum of September 29, 1976 by the Director of Law. The following observations are the result of the review and research. Underlying these comments is the assumption that it is your desire that the existing zoning ordinance as a whole be replaced in full by the proposed new zoning ordinance.

You have submitted three proposed methods of approaching your objective. Any one of the three could be effected by using the same approach as was used when the original zoning ordinance of the City of Wichita was adopted. Since the whole of the ordinance is to be replaced by the new ordinance, including the new and more carefully defined zoning districts and classifications, the "enactment procedures" rather than the "amendment procedures" of K.S.A. 12-708 can be utilized. This would require the setting of a date for a public hearing and the publication thereof in the official city newspaper at least 20 days between the date of the publication and the date set for the hearing.

The new proposed ordinance being a "general revision of the existing ordinance" would not require the mailing of written notice to property owners. Anything short of a general revision of the whole of the existing ordinance would require, I feel, the application of the "amendment procedures" of K.S.A. 12-708 which would include the requirement of written notices by mail to property owners located within 200 feet of any area effected.

Any one of the three methods suggested by you in your memo could be legally adopted by following the "enactment procedures" of 12-708 so long as the whole of the existing ordinance was involved. In analyzing and applying such procedures to the three alternative methods it is important to relate the zoning text to the zoning maps which have been developed over the years under the authority of K.S.A. 12-708. To attempt to adopt the proposed new zoning ordinance without the new maps directly relating by legend and color to the zoning text would very well create some confusion and would make the administration of the zoning ordinance more difficult and certainly less comprehensible to anyone other than a staff expert. This observation is particularly pertinent to "method two" of the three alternative approaches suggested in your memo.



Robert A. Lakin  
Director of Planning  
October 20, 1976  
Page 2.

A combination of your proposed method one and method three would seem to be much more practical and when fully implemented and effective as to all of the parcels of land located within the city would be much easier to explain to and understood by the public. As I view your methods one and three the new zoning text and maps would be adopted at the same time; the new maps could be adopted and incorporated by reference in the new zoning text since this is specifically authorized under K.S.A. 12-708. Under your method one the existing zoning ordinance and maps would remain effective for the 3 or 5 year period at which time the new text and new maps would become fully controlling. Though the time period is not required by statute, the suggested approach might make it easier for the governing bodies as well as the planning commission to go along with your objectives.

The various circumstances that you are suggesting might bring the new zoning ordinance and maps into play during the interval of time would not appear to be in any way objectionable except that the "amendment procedures" including advertisement and notification by mail would then be required. The same is true if none of the circumstances suggested by you occur during the interval of time and the new zoning ordinance and maps became fully effective. I see no way to avoid the notification requirement and particularly if applied to the "neighborhood plan or other changes" arising at a later date of which you specifically inquire.

In summary it would be my recommendation that the time and effort be expended to fully correlate the new zoning text with the new zoning maps reflecting the changes or refinements accomplished through the additional zoning districts and classifications.

A series of public hearings may be held covering particular geographical areas but the final hearing leading to the formal adoption should include all of the area of the City. During the hearing process it may be well to declare a moratorium on specific zoning applications pending the final adoption of the new.

  
H. R. KUHN  
ASSISTANT CITY ATTORNEY

HRK:mb  
cc: John Dekker - Department of Law

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

September 29, 1976

TO John Dekker, Director of Law  
FROM Robert A. Lakin, Director of Planning

SUBJECT Adoption of New Zoning Ordinance

In recent discussion with the MAPC, it has been requested by the Planning Commission that we pursue further the legality of the adoption of the zoning ordinance as I had discussed with you on September 10, 1976. It is also their request that some alternative methods also be researched and to seek your legal opinion on same. It is apparent that it would be extremely difficult at this time to attempt to adopt the text and all the maps in toto.

I would appreciate a legal opinion on each of the following possible methods of adoption of the new zoning ordinance, assuming, of course, that all statutes authorizing the adoption are followed in the form of advertisements, time lapses and public hearings.

Method One

Adopt a new zoning text without the adoption of new maps, and maintain the existing zoning ordinance and maps, which would continue to apply to all properties for a period of (X\*) years, or until any of the following circumstances might occur, at such time the zoning districts of the new zoning ordinance would then be added to the existing maps.

1. All new zoning change requests.
2. Annexation of new areas into the City.
3. A neighborhood plan for an area is adopted by the governing body with remapping occurring on a neighborhood basis only.
4. At the end of (X\*) years all property not included in any of the above three categories would be automatically placed in the zoning districts indicated on the maps as submitted at the time of adoption of the new zoning text, and the zoning ordinance now in existence would then be eliminated and the entire city would then be regulated by the new zoning districts.

\*The number of years to be reasonable should be established for this method. I would think 5 years would be preferable, with 3 years as a possibility.

Page 2 - John Dekker  
September 29, 1976

Method Two

Adopt a new zoning ordinance without maps, and maintain the existing zoning ordinance and maps which would continue to be in effect on all properties until any of the following conditions would occur, at such time the new zoning text would become effective to a property.

1. All new zoning change requests.
2. Annexation of new areas into the City.
3. The governing body or the Planning Commission initiated changes to the zoning maps.

Method Three

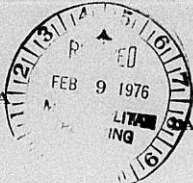
Adopt the new zoning ordinance and maps that would place new zoning on all properties by using the fourteen zoning districts of the new zoning ordinance that are the most comparable to the existing zoning districts. As new zone change requests or annexation of an area occurs, the additional eight zoning districts would then be considered and used when deemed appropriate.

I would appreciate your comments on the legal problems we would have with any of the above methods. I would also like any comment you might have on the advertisement and notification procedure we would have to follow in Methods One and Two, to comply with the State statutes. This would particularly apply to neighborhood plans or other changes that would be considered at a later date by the MAPC and the governing body.

*Robert A. Lakin by JH*  
Robert A. Lakin  
Director of Planning

RAL:GEL:ber

THE CITY OF WICHITA  
OFFICE OF



DATE February 6, 1976




TO Glen E. Lytle, Special Assistant for Zoning  
FROM H. R. Kuhn, Assistant City Attorney

SUBJECT Planned Unit Development  
Regulations

In response to your memo of January 28, 1976, I have reviewed the statutory provisions to which you referred as well as KSA 12-725 et seq. I concur in the observations expressed by you and as a matter of fact your proposed approach seems to have a great deal of merit.

In reviewing the legislative history of the sections cited by you it is rather clear that the purpose of the amendments of 1967 and 1969 was to broaden the authority in adopting codes or regulations in code form by reference. The underlying purpose of the amendment was to reduce the costs involved in legal publications. As observed by one writer "this should save substantial sums of money to the cities or counties involved by way of reduced publication costs".

  
H. R. Kuhn  
Assistant City Attorney

HRK:mb  
cc: John Dekker, Director of Law

le Haupt

Annabelle Haupt, interested citizen, expressed her appreciation of the Commission's concern on hazardous materials and further stated other concerns she has in regard to storage and containment of hazardous materials.

Sanders

Grover Sanders, interested citizen, informed the Commission that it seems so many of the hazardous materials that are being shipped are not properly marked to note them as being hazardous materials until you get right upon the container or vehicle and it will be printed on there in small letters of what it contains and recommended that the City Commission pass legislation requiring that all hazardous materials being shipped be marked with a big orange day-glow balloon pointing out to the public that it does contain hazardous material and they could use caution when they are in the area of those day-glow balloons.

ion

Considerable discussion was had in regard to the City Commission's authority in regulation of transportation of the hazardous materials and storage of same within the city limits of Wichita. It was the consensus of the Commission that a resolution could be drafted to our Representatives in the State and Federal Governments encouraging them to use the highest standards available in the shipment of hazardous material and that the City could pass legislation on the storage of hazardous material within the city limits.

Hobbs  
Campbell

Fire Chief and Chief of the Fire Department, reviewed their procedures in the handling of hazardous material and Chief Hobbs informed the Commission that they had a manual approximately 2-inches thick listing all hazardous materials that they might run into in case of emergency and how to handle each material.

Porter

Commissioner Porter requested that the Manager prepare a resolution to our Representatives supporting better storage and shipping methods using the highest standards available in the shipping and marking of vehicles containing hazardous material.

--carried

Shanahan moved that the report be received and filed with the understanding that further items will be on the agenda at an appropriate time in the future. Motion carried 4 to 0.

RECESS

The City Commission recessed for lunch at 12:11 P.M. and reconvened at 1:35 P.M. with Vice Mayor Shanahan in the Chair. Commissioners Casado and Donnell present. Commissioner \*Porter and Mayor Peters absent.

ED SCREENING  
EMENTS FOR  
E YARDS

Proposed screening requirements for salvage yards, presented.

On July 11, 1978, during discussion of a request for a special permit for an auto salvage yard, the Commission requested that a review be made of the code requirements for the screening of salvage and junk yards.

A report is provided outlining the present zoning ordinance regulations which govern salvage yards and junk yards. Also provided is a report from the Law Department regarding the application of the existing regulations and under what authority changes or additional requirement for screening might be adopted.

The following considerations pertain to the present zoning ordinance:

- 1) The requirements of the zoning ordinance are not retroactive and do not apply to many of the auto wrecking yards, salvage yards, etc., that have been annexed into the City and are nonconforming uses.
- 2) The standards for screening fences within the zoning ordinance which are also referred to by the licensing ordinance have produced a variety of types of fencing, some of which are accepted as in compliance even though by appearance is no better than the material that is being screened by the fence.
- 3) The terms referred to as main thoroughfare or business street are not defined and may be unrealistic as to limiting locations.
- 4) Solid fencing requirements have been waived by the previous governing bodies for 12 of the 20 automobile wrecking locations under the licensing provision. The majority of these waivers have been for nonconforming uses or those located in the "F" Heavy Industrial District.

It is recommended that:

- 1) Screening standards be established for all types of uses such as automobile wreckers, scrap processors and other similar outdoor storage and sales area and require that an annual review of the condition of the screening fence be made before the new renewal of the license.

# COMMISSIONERS PROCEEDINGS

6457

August 29, 1978

- 2) Amend the zoning ordinance to establish the same standards for screening of all new uses falling into the licensing requirements and also require all outdoor storage areas used for wrecked vehicles, contractors equipment and supplies, used building material, scrap processing operations and similar businesses.
- 3) Eliminate the requirement that new auto wrecking and scrap processors may not be located on a main thoroughfare or business street and permit such uses by the Board of Zoning Appeals subject to screening requirements after notification of adjacent property owners and a public hearing.
- 4) Review all existing screening fences prior to relicensing, and require replacement or improvements that would be acceptable to the Governing Body.

A. Porter

\*Commissioner Porter present.

It is recommended that the Commission approve the proposed recommendations and authorize administrative staff to initiate the necessary documentation to implement.

Lakin

Director of Planning showed the Commission slides of some of the non-conforming screens and fencing around salvage yards and informed the Commission that these were by waivers of previous Commissions. Mr. Lakin stated that he had checked with the Attorney's office and they felt that the licensing section could be used in the enforcement of new fencing or screening ordinances. Mr. Lakin recommended that, not only auto wrecking, but other types of salvage businesses be included in the screening recommendations. Mr. Lakin answered questions of the Commission.

Mayor Shanahan

Vice Mayor Shanahan asked if there were any members of the public that would like to be heard on this item. No one appeared.

Lakin

Mr. Lakin informed the Commission that, with proper hearings in the development of this regulation, it would be at least three months before it would be completed and ready for presentation to the Commission.

Shanahan

Shanahan moved that the recommendations be approved as outlined and the administrative staff be authorized to initiate the necessary documentation to implement and it be returned to the City Commission at a later date included in that will be the Administration, Planning Department and others working with the business and property owners that may be involved to secure and obtain their input bearing in mind that there would be ample time for such properties to be brought into compliance and also consider if there be some assistance that the City may provide in buying or plans or possibilities some assistance in the acquisition of materials. Motion carried 4 to 0.

--carried

POLICEMEN & FIRE-  
MEN BOARD OF TRUSTEES  
13TH ANNUAL REPORT

Policemen's and Firemen's Board of Trustees 13th Annual report, presented.

The report is for the fiscal year ended March 31, 1978.

H. Denton

City Manager reviewed the report and informed the Commission that possibly, if they preferred, they could defer it to a later date and stated that the information and assumptions that the Commission had asked staff to consider had been considered and was being put together at this time to be brought back to the Commission later after review by the Board.

Porter

Commissioner Porter asked what impact it would have if the City was to return to a minimum age of retirement of 50.

H. Denton

City Manager stated that he did not know, but he would check with the actuary and ask him to submit figures on that basis.

Shanahan

Shanahan moved that the report be received and filed. Motion carried

Additions underlined  
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Zoning Ordinance of the  
City of Wichita, Kansas

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WICHITA-SEDGWICK COUNTY

DATE

March 16, 1977

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TO E. H. Denton, City Manager  
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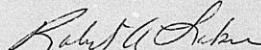
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WICHITA-SEDGWICK COUNTY

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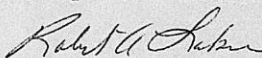
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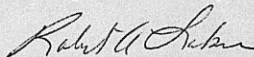
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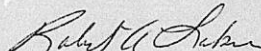
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**JUNKYARD AND REFUSE ORDINANCE  
OF THE COUNTY OF TIOGA, PENNSYLVANIA**

*Article I*  
**TITLE, INTENT AND AUTHORITY**

**Section 101. Title**

101.01 These regulations shall be known and may be cited as the "Junkyard and Refuse Ordinance of the County of Tioga, Pennsylvania."

**Section 102. Intent**

102.01 These regulations are hereby established to protect the public health, safety and welfare; to assure the compatibility of junkyards with surrounding land usage; to enhance the aesthetics and economies of the county; to protect the public investment in lands, streets and highways; and to protect tax revenues by promoting the reasonable, orderly, and effective storage of junk.

**Section 103. Authority**

103.01 The County Board of Commissioners has jurisdiction and control of land use and development as set forth in Act 247 (as amended by Act 93 and Act 194), the *Pennsylvania Municipalities Planning Code*.

**Section 104. Limitation of Power**

104.01 These regulations shall have effect in those boroughs and incorporated townships which have no regulations governing junkyards and refuse in effect at the time this Ordinance is introduced and until the borough or township ordinance is in effect. The enactment of a junkyard and refuse ordinance or of a zoning ordinance, with provisions for the control of junkyards and refuse by any municipality, other than the county, whose land is subject to the county, shall act as a repeal pro tanto of the County Junkyard and Refuse Ordinance within the municipality adopting such ordinance.

*Article II*  
**DEFINITIONS**

**Section 201. Definitions**

201.01 **General Terms** - As used in these regulations, words in the singular include the plural; and those in the plural include the singular. The words "shall" and "will" for the purpose of these regulations are defined as mandatory.

201.02 **Specific Terms** - As used in these regulations, additional specific terms or words shall be defined as follows: Unless otherwise expressly stated, the following definitions shall, for the purpose of these regulations, have the meaning herein indicated. Any pertinent word or term not a part of this listing but vital to the interpretation of these regulations shall be construed to have its legal definition.

1. **Person** - Shall include any partnership, association, firm, corporation and individual.
2. **County** - Shall mean the County of Tioga, State of Pennsylvania.
3. **Junk (Refuse)** - Shall mean old iron, steel, brass, copper, tin, lead or other base metals; old cordage ropes, rebs, fibers or fabrics; old rubber or plastics; old bottles or other glass; bones; wastepaper; discarded appliances and wrecked, scrapped, ruined, dismantled or junked motor vehicles. It shall not include, however, materials and objects accumulated by a person as by-products, waste or scraps from the operation of his own business or materials or objects held and used by a person as an integral part of his own business operations.
4. **Junkyard** - Shall mean a yard, lot or place containing junk as herein defined, upon which occurs any or all of the acts of buying, keeping, dismantling, processing, selling or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose.
5. **Junk Dealer** - Shall mean any person, as herein defined, who shall engage in the business of selling, buying, salvaging and dealing in junk and who maintains and operates a junkyard within the County of Tioga.

*Article III*  
**REGULATIONS AND STANDARDS**

**Section 301. Junkyards and Refuse**

301.01 In conjunction with all land uses, the following regulations shall control the establishment and maintenance of junkyards:

1. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health, safety and welfare of the county or to provide a place for the breeding of rodents and vermin.
2. No garbage or other organic waste shall be stored on such premises.
3. Whenever any motor vehicle shall be received on such premises as junk, all gasoline shall be drained and removed therefrom. Gasoline shall be stored in approved containers which are kept on the premises.
4. The premises on which junk is stored shall be set back a minimum distance of two hundred fifty (250) feet from the right-of-way lines on all streets or roads and a minimum distance of fifty (50) feet from all other property lines and known flood plain elevation. The area between the setback lines and the right-of-way line of all streets and roads, the known flood plain elevation and all other property lines shall at all times be kept and vacant. In the case of Federal Aid Routes, the said setback shall be one thousand (1,000) feet from the center line right of way.
5. Any premises on which junk is stored shall at the setback lines be enclosed by evergreen screen plantings or a uniformly pointed solid board fence or both.
6. All junk shall be stored in such a manner and screened so as not to be readily accessible or visible from the street, public road or adjacent property. Junk shall not be stored above the height of the screen plantings or fence.
7. The manner of storage and arrangement of junk and the drainage facilities of the premises shall be such as to prevent the pollution of springs and streams, to prevent the accumulations of stagnant water upon the premises and to facilitate access for fire-fighting purposes.
8. Any person governed by these regulations shall not burn out any motor vehicle or its equivalent at any time. No oil, grease, tires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junkyard at any time.
9. Every person licensed under these regulations shall provide and shall constantly keep a book in which shall be fairly written down in the English language at the time of the purchase of any junk, a description of every article or material purchased or received by him, the date and hour of such purchase and the person from whom such article or material was purchased, received or handled by such person shall at all times be subject to the inspection of any official of Tioga County.
10. Every person, governed by these regulations, shall keep and retain upon the licensed premises for a period of forty eight (48) hours after the purchase or receipt thereof, all junk received or purchased by him; and he shall not disturb or reduce the same or alter the original form, shape or conditions until such period of forty eight (48) hours shall have elapsed.

*Article IV*  
**VARIANCES AND APPEALS**

**Section 401. Variances**

401.01 Hardship - The County Commissioners may grant variances to these regulations where unusual or exceptional factors or conditions require such modification provided that the County Commissioners, after a hearing shall:

1. Find that unusual topographical or exceptional physical conditions exist.
2. Find that strict compliance with these regulations would create an extraordinary hardship in the face of the exceptional conditions.
3. Find the situation is unique, not one shared similarly by other properties in the neighborhood.
4. Find the hardship is not self-created by the property owner.
5. Find the hardship is not to be construed to mean that less profit will be made under the existing regulations than might be realized with the granting of a variance.

6. Find the hardship is suffered by the parcel of land under question and not by other parcels owned by the applicant or by the community as a whole.

7. Permit any modification depart from these regulations only to the extent necessary to remove the extraordinary hardship.

401.02 Public Interest Secured - The County Commissioners may grant a variance to such applicant from such mandatory provisions so that substantial justice may be done and the public interest secured, provided that such variance may be granted only upon concurrence of a majority of the County Commissioners present at a public meeting, and that such variance will not have the effect of nullifying the intent and purpose of these regulations.

401.03 County Commissioners May Impose Conditions - In granting variances and modifications, the County Commissioners may impose such conditions as will, in their judgement, secure substantially the objectives of the standards of requirements to be modified.

Section 402. Penalties

402.01 The violation of the terms of this Ordinance shall be punishable by a fine not exceeding two hundred dollars (\$200.00) or imprisonment not exceeding sixty (60) days or both in the discretion of the court for each offense; and each day a violation continues to exist, shall constitute a separate offense.

Section 403. Appeal

403.01 Person Aggrieved - Any person aggrieved by a finding, decision or recommendation of the County Commissioners may, within thirty (30) days, request and receive opportunity to appear before the County Commissioners, present additional relevant information and request reconsideration of the original finding, decision or recommendation.

403.02 Appeal to Court of Common Pleas

1. Any person aggrieved by a finding, decision or recommendation of the County Commissioners may appeal such finding, decision or recommendation to the Common Pleas Court.

Article V  
ENFORCEMENT AND LEGAL PROCEDURE

Section 501. Enforcing Officer

501.01 The provisions of this Ordinance shall be administered by the County Commissioners. The County Commissioners may delegate all or part of the administration of this Ordinance to an agent and the extent of this delegation shall be on record in the minutes of the County Commissioners.

Article VI  
SEVERABILITY AND CONSTITUTIONALITY

Section 601. Severability and Constitutionality

601.01 The provisions of this Ordinance shall be severable; and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted or if such unconstitutional, illegal or invalid provisions had not been included therein.

Duly enacted and ordained as an Ordinance of the County of Tioga on this 7th day of June, 1976, by the Commissioners of the County of Tioga, Commonwealth of Pennsylvania.

Commonwealth of Pennsylvania  
County of Tioga

BY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Chief Clerk

route, it shall be the duty of the municipality to erect signs and warning signs shall be placed at the location where the detour is made, or at the entrance to a detour on a highway. The signs shall be in accordance with the provisions of section 2 (68-2102) in connection with the detour. The municipality shall be liable for any damage to the property of the public which may be taken by the detour. The municipality shall be liable for any damage to the property of the public which may be taken by the detour.

of road being under control; signs, markers, violation of public use of a road under their control; the making of a detour; the construction of a road; the regulation of speed restrictions; signs, markers or devices; the erection of any part of such restrictions or signs directed as hereinafter with traffic watchman at

man, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum of not less than ten dollars (\$10) nor more than one hundred dollars (\$100). [L. 1957, ch. 354, § 4; June 29.]

**Cross References to Related Sections:**

Speed restrictions, see 8-532 to 8-534, 8-530.

**68-2105. Contractor's pay withheld until act complied with.** Any person to whom has been awarded a contract for the making of any improvement as provided for in this act shall receive no pay on any estimate for work on said contract until such person has complied with the provisions of this act. [L. 1957, ch. 354, § 5; June 29.]

**68-2106. Unlawful to destroy or remove barricades, warning signs, or drive on closed hard surfaced highway; penalty; damages.** Any person who shall, without authority, destroy or remove any barricade, warning sign or warning light when used in accordance with the provisions of this act, or who shall drive on a hard-surfaced highway under improvement without authority from the proper officials, when said road is barricaded and suitable warning signs have been placed to advise that such road is closed to traffic, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the fines and penalties prescribed by section 7 (68-2107) of this act, and, in addition, said person shall be required to reimburse the contractor, municipality or commission for any damage to the improvements or to the barricades, warning signs or lights; but nothing in this act shall be construed as prohibiting or restricting the authorities of the municipality, commission, or federal government from having free access to the improvement at all times. [L. 1957, ch. 354, § 6; June 29.]

**Research and Practice Aids:**

Highways—183(1).  
C. I. S. Highways § 230.

**68-2107. Same; penalties.** Any person or the officers of any municipality, commission or district failing, neglecting or refusing to comply with the provisions of this act, and for which a specific penalty is not provided in this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than ninety (90) days, or by both such fine and imprisonment. [L. 1957, ch. 354, § 7; June 29.]

**68-2108. Liability of commission or municipality not extended or enlarged.** Nothing contained in this act shall be construed as extending or enlarging the liability: (a) Of the commission for damages for defects in state highways under the provisions of section 68-419 of the General Statutes of 1949 or acts amendatory thereof or, (b) of any municipality for damages for defects in roads, streets, alleys or highways. [L. 1957, ch. 354, § 8; June 29.]

**Article 22.—HIGHWAY  
BEAUTIFICATION**

**JUNKYARD AND SALVAGE CONTROL ACT**

**Cross References to Related Sections:**

Junk dealers, regulation, see 50-619 et seq.

**68-2201. Short title.** This act may be cited as the "junkyard and salvage control act." [L. 1967, ch. 357, § 1; May 4.]

**68-2202. Purposes.** For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest, and necessary and appropriate to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to highways, roads and streets within this state. [L. 1967, ch. 357, § 2; May 4.]

**68-2203. Definitions.** (a) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, dismantled or inoperative motor vehicles or motor vehicle parts.

(c) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(d) "Interstate system" means that portion of the national system of interstate and defense highways, including city connecting

links and portions of the Kansas turnpikes, located within this state, as officially designated, or as may hereafter be so designated, by the commission, and approved by the proper federal authority as provided by law.

(e) "Primary system" means that portion of connected main highways, including city connecting links, as officially designated, or as may hereafter be so designated, by the commission, and approved by the proper federal authority as provided by law.

(f) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including municipal corporation.

(g) "Commission" means the state highway commission.

(h) "Board" means state salvage board created by section 12 [68-2212] of this act. [L. 1967, ch. 357, § 3; May 4.]

**68-2204. Junkyards prohibited, when.** No person, firm, corporation, or municipality shall establish, operate, or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right of way of any street or highway on the interstate system or the primary system, or any portion of which is within one thousand (1,000) feet of the nearest edge of the right of way of any other state, county, township highway, road, or city street, except the following:

(a) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the street or highway, or otherwise removed from sight.

(b) Those located within areas which are zoned for industrial use under authority of law.

(c) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by rules and regulations to be adopted by the board and approved by the commission.

(d) Those which are not visible from the main traveled way of a street or highway on the interstate or the primary systems, or any other state, county, township highway, road, or city street. [L. 1967, ch. 357, § 4; May 4.]

**68-2205. License required; issuance of license; fee; terms; renewal; failure to make an original or renewal application; penalty.** No person shall establish, operate, or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any street or highway on

the interstate or the primary systems, or any other portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any other state, county, township highway, road or city street, without obtaining a license from the board which licenses shall be issued only for junkyards not prohibited by K. S. A. 1971 Supp. 68-2204. The board shall have the sole authority to issue licenses for the establishment, maintenance, and operation of junkyards within the limits defined herein and shall charge therefor an annual fee of fifty dollars (\$50) payable on or before the first day of January. Anyone establishing a junkyard after July 1 of any year shall pay a fee of twenty-five dollars (\$25) for the remaining portion of the year: *Provided, however*, No city or county governing body shall be required to pay any fees provided for herein. All licenses issued under this section shall expire on the first day of January following the date of issue. A license may be renewed from year to year upon paying to the board the sum of fifty dollars (\$50) in advance for such renewal.

Any person who shall willfully or intentionally refuse to make an original application or renewal application, or to pay the annual license fee, as prescribed in this act, shall be deemed delinquent on and after February 16 of any year, or in cases where business is established after the first of the year he shall be deemed delinquent on and after forty-five (45) days after establishment of the business and shall be assessed a penalty fee by the board of one dollar (\$1) per day for each day he continues to do business thereafter until the application is made and the fees have been paid. After such time it shall be unlawful for the owner, or any person, to operate the junkyard. Proceeds from such fees shall be deposited with the state treasurer in the state highway fund and be subject to disbursement as provided by law to defray the expenses of administering the provisions of this act. Any person who shall violate any provision of this section shall be guilty of a misdemeanor, and on conviction, shall be fined not more than five hundred dollars (\$500), or be sentenced to the county jail for a period of not more than ninety (90) days, or both such fine and imprisonment. Any person required to be licensed under this act, and who shall fail to make application with the board, or pay the license fee when due, or, who shall continue to do business when the board has denied, suspended or revoked such application

or license, the board may obtain an injunction enjoining an applicant from operating in violation of this act. [L. 1968, ch. 357, § 5; L. 1968, ch. 250, § 1; March 23.]

**68-2206. Requirements for license.** The board with the approval of the commission shall have the authority to issue regulations governing the establishment, construction and operation of junkyards, and the materials used in the construction thereof, and other screening facilities, and easements shall be required by this act. [L. 1967, ch. 357, § 6.]

**68-2207. Junkyard license.** Any junkyard lawful as of the effective date of this act, and which is within one thousand (1,000) feet of the right-of-way and any other traveled way of any street or highway on the interstate or the primary system, or any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any other state, county, township highway, road, or city street, shall be deemed delinquent on and after February 16 of any year, or in cases where business is established after the first of the year he shall be deemed delinquent on and after forty-five (45) days after establishment of the business and shall be assessed a penalty fee by the board of one dollar (\$1) per day for each day he continues to do business thereafter until the application is made and the fees have been paid. After such time it shall be unlawful for the owner, or any person, to operate the junkyard. Proceeds from such fees shall be deposited with the state treasurer in the state highway fund and be subject to disbursement as provided by law to defray the expenses of administering the provisions of this act. Any person who shall violate any provision of this section shall be guilty of a misdemeanor, and on conviction, shall be fined not more than five hundred dollars (\$500), or be sentenced to the county jail for a period of not more than ninety (90) days, or both such fine and imprisonment. Any person required to be licensed under this act, and who shall fail to make application with the board, or pay the license fee when due, or, who shall continue to do business when the board has denied, suspended or revoked such application

**68-2208. Acquisition of land.** When the commission determines that it is in the public interest that the topography of the land on which a road or street will not be constructed, or that the acquisition of such junkyard is not economically feasible, the commission shall have the authority to acquire such lands as may be necessary for the construction, removal or disposal thereof, and to pay for the acquisition thereof, and to determine that it is in the public interest that it may acquire such lands, as may be necessary for the adequate screening of such junkyard. [L. 1967, ch. 357, § 8; May 4.]

**68-2209. Nuisance.** Any junkyard which is a nuisance as of the effective date of this act, and which is in violation

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or license, the board may file an action in injunction enjoining any such person from operating in violation of this act. [L. 1967, ch. 357, § 5; L. 1968, ch. 154, § 1; L. 1972, ch. 250, § 1; March 23.]

**68-2206. Requirements as to screening.** The board with the approval of the commission shall have the authority to adopt rules and regulations governing the location, planting, construction and maintenance, including the materials used in screening or fencing required by this act. Any plantings, fencing or other screening facilities located on public land or easements shall be public property. [L. 1967, ch. 357, § 6; May 4.]

**68-2207. Junkyards lawfully in existence.** Any junkyard lawfully in existence on the effective date of this act which is within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway now on the interstate or the primary systems, and any junkyard within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any other state, county, township highway, road or city street, shall be screened, if feasible, by the commission at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way so as not to be visible from the main traveled way of such highways. [L. 1967, ch. 357, § 7; May 4.]

**68-2208. Acquisition of land, when.** When the commission determines that the topography of the land adjoining the highway, road or street will not permit adequate screening of any such junkyards lawfully in existence at the effective date of the act, or the screening of such junkyards would not be economically feasible, the commission shall have the authority to acquire by gift, purchase, exchange, or condemnation, such interests in lands as may be necessary to secure the relocation, removal or disposal of the junkyards; and to pay for the costs of relocation, removal, or disposal, thereof. When the commission determines that it is in the best interest of the state it may acquire such lands, or interests in lands, as may be necessary to provide adequate screening of such junkyards. [L. 1967, ch. 357, § 8; May 4.]

**68-2209. Nuisances; abatement.** Any junkyard which comes into existence after the effective date of this act, or was being maintained in violation of law on the effective date

of this act, or after said date is altered, changed or enlarged so as not to conform to this act, and which is not made to conform to the act by the owner or operator thereof is declared to be a public and private nuisance and may be removed, obliterated or abated by the commission or its representative. Notice by certified or registered mail shall be given said owner or operator at least thirty (30) days before any such removal, obliteration or abatement: *Provided*, If the whereabouts of said owner or operator is unknown, such notice shall be posted in a conspicuous place at such junkyard at least sixty (60) days before such removal, obliteration or abatement. The commission may collect the cost of such removal, obliteration or abatement from the person owning or operating such junkyard. [L. 1967, ch. 357, § 9; May 4.]

**68-2210. Interpretation.** Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution, which are more restrictive than the provisions of this act. [L. 1967, ch. 357, § 10; May 4.]

**68-2211. Agreements with the United States authorized.** The commission is hereby authorized to enter into agreements with the United States secretary of commerce as provided by title 23, United States code, relating to the control of junkyards in areas adjacent to the interstate and the primary systems, and to take action in the name of the state to comply with the terms of any such agreement. [L. 1967, ch. 357, § 11; May 4.]

**68-2212. State salvage board.** There is hereby created a state salvage board consisting of five (5) members, one of whom shall be the director of highways of the state highway commission, one of whom shall be the superintendent of the motor vehicle department of the state highway commission, and three of whom shall be appointed by the governor as hereinafter provided, with the advice and consent of the senate.

The three appointive members of the first board shall be appointed within thirty (30) days after this act takes effect and for terms as follows: One for a term of two (2) years, one for a term of three (3) years, and one for a term of four (4) years. Upon the expiration of a term of a member, his successor shall be appointed for a term of four (4) years by the governor. Each member shall serve until his successor is appointed and qualified. In the case of a vacancy on the board, the gov-

error shall appoint a successor for the unexpired term.

Of the three (3) appointive members authorized by this section, no one shall be eligible to be appointed or serve on the board unless: (a) He has had at least three (3) years experience as a salvage dealer or as a scrap metal processor in the state of Kansas immediately prior to his appointment; (b) he is the owner of an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling, in whole or in part, wrecked, ruined, dismantled, or inoperative motor vehicles and metals having salvage value or is the owner of a scrap metal processing facility; and (c) he is an owner of such an establishment or place of business which is duly registered with the vehicle department of the state highway commission, if required by law, and is in possession of a valid sales tax certificate of registration from the state director of revenue if required by law.

For the purposes of this section, the term "salvage dealer" shall mean any individual engaged in the business of buying and selling property described in clause (b) of this section; the term "scrap metal processor" shall mean any individual who buys and processes scrap metal and sells same at wholesale; and the word "owner" shall mean any salvage dealer or scrap metal processor having title, dominion or control over property described in clause (b) of this section.

The board shall annually elect from among its members a chairman and a secretary. The appointive members while serving on the business of the board shall receive their necessary travel and subsistence expense while so serving away from their places of residence, and twenty-five dollars (\$25) per day. The board shall meet upon the call of its chairman. The board is hereby authorized to promulgate, in the manner provided by law, rules and regulations to carry out and enforce the provisions of this act, subject to the approval of the state highway commission. The chairman, with the approval of the board, may appoint such employees as may be necessary to carry out this act in accordance with the Kansas civil service act. [L. 1967, ch. 357, § 12; May 4.]

**68-2213. Denial, suspension or revocation of license; appeal.** The board may deny the application of any person for a license under this act and may suspend or revoke a license issued or refuse to issue a renewal thereof. Upon any such denial, suspension,

revocation or refusal, the board shall immediately notify such person in writing, and upon his request shall afford him an opportunity for a hearing. The board, subject to the approval of the commission, shall promulgate such rules and regulations concerning the notice and hearing as are deemed necessary. Any applicant or licensee deeming himself aggrieved by any decision of the board may, within thirty (30) days after notice or receipt of a copy of the order of the board, appeal to the district court of the county in which the premises are licensed or sought to be licensed are located. Notice of said appeal shall be served upon the chairman or secretary of the board. Whereupon the board shall file with the clerk of the district court a certified copy of the transcript including the records of the board and all evidence introduced in the proceedings. At the time of filing the appeal, the party appealing shall give a bond for costs conditioned that he shall prosecute the appeal without delay and pay all costs assessed against him. The district court shall have jurisdiction to hear and determine such appeals. Such an appeal shall be heard as an equity proceeding. Trial may be had on any order made in term or vacation. The transcript of the proceedings had at the hearing before the board shall be admissible in evidence. Appeals may be taken from the district court to the supreme court by the applicant, licensee or by the board as in civil cases, except that the board shall not be required to give a bond on appeal. In hearing and considering any appeal, the court shall not enforce or give effect to any rule or regulation which it shall find is unreasonable, arbitrary or capricious, and the court shall affirm the order or decision of the board if it is found to be valid and free from prejudicial error to the appellant. [L. 1967, ch. 357, § 13; May 4.]

**68-2214. Severability.** If any clause, paragraph, subsection or section of this act shall be held invalid or unconstitutional it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional clause, paragraph, subsection or section. [L. 1967, ch. 357, § 14; May 4.]

**68-2215. Penalties for violation of junkyard salvage control act.** Any person who shall violate any provision of K. S. A. 1967 Supp. 68-2201 to 68-2214, inclusive, the same being the junkyard salvage control act, shall be guilty of a misdemeanor and on conviction,

unless otherwise be fined not more than \$500 or be sentenced to imprisonment not more than ninety (90) days and imprisonment for a term of not more than six (6) months. [L. 1967, ch. 357, § 15; March 26.]

## HIGHWAY AD

**68-2216 to 68-2218.** §§ 1 to 15; Repealed March 31.]

Revisor's Note:  
New act, see 68-

## HIGHWAY AD

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y person who  
K. S. A. 1967  
sive, the same  
ontrol act, shall  
on conviction,

unless otherwise specifically provided, shall be fined not more than five hundred dollars (\$500) or be sentenced to the county jail for not more than ninety (90) days, or both such fine and imprisonment. [L. 1968, ch. 154, § 2; March 26.]

**HIGHWAY ADVERTISING CONTROL ACT OF 1968**

**68-2216 to 68-2230.** [L. 1968, ch. 346, §§ 1 to 15; Repealed, L. 1972, ch. 251, § 14; March 31.]

Revisor's Note:

New act, see 68-2231 et seq.

**HIGHWAY ADVERTISING CONTROL ACT OF 1972**

**68-2231. Declaration of policy.** The legislature hereby finds and declares: (a) That outdoor advertising is a legitimate, commercial use of private property adjacent to streets, roads and highways;

(b) that the erection and maintenance of outdoor advertising billboards, signs, displays, and devices in areas adjacent to interstate highways and primary highways should be regulated in order to protect the public investment in such highways, to promote the recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of outdoor advertising;

(c) that outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to operate in business areas, or areas where other commercial use of land is not prohibited by existing state law, county or city ordinance; and

(d) that the regulatory standards set forth in section 4 [68-2234] of this act are consistent with customary use in this state and will properly and adequately carry out each and all of the purposes of this act; and that more severe restrictions would be inconsistent with customary use in this state and ineffective to accomplish the purposes of this act. [L. 1972, ch. 251, § 1; March 31.]

Source or prior law: 68-2216.

**68-2232. Definitions.** As used in this act the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Adjacent area" means an area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right of way on any interstate or primary highway, which distance shall be measured hori-

zontally along a line perpendicular to, or at an angle of ninety (90) degrees to, the center line of the highway.

(b) "Business area" means any part of an adjacent area which is at any time (1) zoned for industrial or commercial activities under the authority of any law or by a local zoning authority; or (2) not so zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways on a divided highway, or the center line of the main traveled way on a nondivided highway.

(d) "Commercial or industrial activities" means, for the purpose of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by local zoning authorities in this state, but excluded the following activities:

- (1) Outdoor advertising structures;
  - (2) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;
  - (3) Transient or temporary activities;
  - (4) Activities not visible from the main traveled way;
  - (5) Activities more than six hundred sixty (660) feet from the nearest edge of a highway right of way;
  - (6) Activities conducted in a building principally used as a residence; and
  - (7) Railroad tracks and minor sidings.
- (e) "Commission" means the state highway commission.

(f) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign structure.

(g) "Freeway" means any primary highway which is either: (1) A controlled-access highway, as defined by K. S. A. 1971 Supp. 8-501; (2) a controlled access facility constructed pursuant to K. S. A. 68-1901 et seq.; or (3) a modern express highway or freeway constructed pursuant to K. S. A. 1971 Supp. 68-2301.

(h) "Highway" means a highway as defined by subsection (k) of K. S. A. 1971 Supp. 8-234 and any amendments thereto.

(i) "Interstate highway" means any high-

MONOPOLIES AND UNFAIR TRADE

ares or merchandise not actually requested by the recipient, the any such unsolicited goods, wares or merchandise shall for all purposes be unconditional gift to the recipient or dispose of the same in any recipient sees fit without any in his or her part to the sender. on for the return of said goods, merchandise, or for payment of the ce thereof or any other consider- or, it shall be a complete defense is, wares or merchandise were de- recipient unsolicited and that did not actually order or request L. 1969, ch. 272, § 1; July 1.]

nd Bar Journal References:  
s of this section discussed in "Con- nent's Obligation for Unsolicited Goods," s, 10 W. L. J. 144 (1970).

Unsolicited credit cards; rights when card lost or stolen. When- son, firm, partnership, association, or other business organization, or hereof, shall voluntarily issue or issued a credit card, as defined -3729, where the person to whom used has not requested or solicited e, and has neither signed nor rd, the person to whom the card l not be liable for any use or mis- card if it shall be lost or stolen. for the return of said credit card, urn of any goods, wares or mer- ured through use of said credit ent to it being lost by or stolen pient thereof, or for the payment se price of said goods, wares or it shall be a complete defense by t that the credit card was issued, red, or cause to be issued, sent to the recipient unsolicited or ent did not actually order or re- ne and that the recipient neither ed such card. Where any person d or solicited the issuance of a om any person, firm, partnership, corporation or other business or- any agent thereof or such per- or used such card, the reissu- val of such card, regardless of any est or solicitation therefor by the

Cross References to Related Sections:

Unlawful use of credit card, see 21-3729.  
Issuance, liability and fraudulent use of credit cards, see 10-841 et seq.

JUNK DEALERS

Cross References to Related Sections:

Junkyard and salvage control act, see 68-2201 et seq.

**50-619. Definitions.** As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Junk dealer" means any person engaged in the business of buying, selling and dealing in junk, or any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk or any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer, but shall not include antique dealers, or automotive salvage dealers dealing in wrecked vehicles as defined in this act;

(b) "Junk yard" means any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept;

(c) "Junk" shall mean and include, in addition to items or goods commonly referred to as junk, such other used or secondhand goods as rope, scrap iron, brass, lead, copper or aluminum wire or tubing and other scrap metals, but shall not include antiques, or wrecked vehicles as defined in this act;

(d) "Antique" means any furniture, object of art, or other object, item or article made or manufactured at an earlier period of time, but shall not include junk;

(e) "Antique dealer" means any person conducting a business of buying and selling antiques;

(f) "Wrecked vehicle" means any wrecked, ruined, dismantled or inoperative motor passenger vehicle or motor truck, and any part or accessory therefrom, for which an original or assigned certificate of title is transferred for such vehicle or truck to an automotive salvage dealer and later surrendered and reported to the division of vehicles of the state department of revenue as required by law;

CONSUMER PROTECTION

presented thereto designated as the junkyard and salvage control act. [L. 1971, ch. 225, § 1; L. 1975, ch. 427, § 66, Aug. 15.]

**50-620. Prohibited acts; certain information as to ownership of junk required; register.** It shall be unlawful for any person to sell any item or items of junk to a junk dealer in this state unless such person shall present to said junk dealer, at the time of sale, information as to the ownership of such item or items of junk. Such information shall include the seller's name, address and place of business, if any. Every junk dealer shall keep a register in which the dealer shall at the time of purchase or receipt of any item, excepting rags and paper, enter the name, residence and place of business, if any, of the person from whom the junk dealer purchased or received the item, description of items purchased and the price paid for such item or items. [L. 1971, ch. 225, § 2; July 1.]

**50-621. Same; junk dealer prohibited from purchasing items of junk without receiving from seller information as to ownership; record of ownership.** It shall be unlawful for any such junk dealer to purchase any item or items of junk after the effective date of this act without demanding and receiving from the seller thereof information as to ownership. Every junk dealer shall file and maintain a record of ownership of items purchased pursuant to any transaction described in K. S. A. 50-620. All records kept in accordance with the provisions of this act shall be open at all times to peace and police officers, except as otherwise prescribed by the city ordinances regulating the activities of junk dealers and shall be kept for two (2) years. [L. 1971, ch. 225, § 3; July 1.]

**50-622. Penalty.** Any person violating the provisions of this act shall be guilty of a Class C misdemeanor. [L. 1971, ch. 225, § 4; July 1.]

KANSAS CONSUMER PROTECTION ACT

Revisor's Note:

The Kansas Comments following sections of the Kansas Consumer Protection Act were prepared by Barkley Clark, Associate Dean and Professor of Law at the University of Kansas School of Law, who also served as consultant to the committees considering the proposed legislation. These comments, in the nature of Revisor's Notes, have been added to the

Act cited in note on implied warranty, Kansas Consumer Protection Act, 682, 683 (1974).

Act cited in discussion of consumer Tenth Judicial District, William P. J. B. A. K. 67 (1975).

Act discussed in note, "A New Look to an Old Fraud," consumer protection act, Polly Higdon, W. L. J. 623, 624 (1975).

Discussed in article with reference 318, 2-719, 2-102 and 2-318, "Becoming Warranties: A New Dimension in Cognition," Barkley Clark, Michael J. D. 567, 594, 595, 596, 597, 599, 602, 603 (1975).

**50-623. Kansas consumer purpose; construction.** This act construed liberally to promote the ends:

(a) To simplify, clarify and law governing consumer transactions;

(b) to protect consumers who commit deceptive and practices;

(c) to protect consumers from for warranty disclaimers; and

(d) to provide consumers with cancellation period for door-to-door sales. [L. 1973, ch. 217, § 1; L. 1974, ch. 1976, ch. 236, § 1; July 1.]

KANSAS COMMENT, I

This act, entitled the Kansas Consumer Protection Act, replaces the 1968 Buyer Protection Act, K. S. A. 50-601 to 50-616, which in rendered unlawful any deception or in connection with the sale of merchandise, prior Kansas law is both broad and specific. Private remedies are addition to public enforcement by the under the Buyer Protection Act, no were available. Whereas the old Act covered only merchandise, this act of services and real estate as well. Its substantive provisions are added relative of warranty and cancellation of home Section 50-623 provides interpretation and describes the general scope of the

Law Review and Bar Journal Refer-

Discussed in note on landlord-tenant liability, 22 K. L. R. 666.

Cited in discussion of consumer protection Judicial District, William P. Coates, J. 67, 71 (1975).

Subsection (c) discussed in note, "Approach to an Old Fraud," on consumer Polly Higdon Wilhardt, 14 W. L. J. (1975).

This and following sections mention "U. G. C.—Limitations on Personal In-

THE CITY OF WICHITA

OFFICE OF

DATE 7-14-78



TO Gene Brown, Deputy City Treasurer  
FROM License Dept.

SUBJECT List of Auto Wrecking Company

Wayne Castle  
✓ Foreign Cars Unlimited  
2819 No. Broadway

C. L. Hall & Sons  
1530 West MacArthur

M. W. Briley  
✓ Briley Auto Salvage  
3501 So. Broadway

✓ Rhinart's Salvage  
3527 North Broadway

✓ Fred Gray  
✓ G & R Motors  
4125 So. Broadway

✓ Glenn H. Beagley  
✓ B & B Auto Salvage  
4153 So. Broadway

✓ Mark McClellan  
2050 Cleveland

Truck Parts Equipment Co.  
4501 West Estimer

Larry Burkholder  
✓ Koon's Repair, Inc.  
713 So. Leonine

Don Schmid  
✓ Schmid Iron Metal & Auto Salvage  
125 West Mac Arthur

Herbert S. Thornell  
✓ Chrisman Auto Salvage  
3703 Maple

R. O. Middleton  
1716 So. Richmond

✓ Hayes Auto Salvage  
2500 So. West

John A. Marshall  
✓ Marshall Auto Sales Salvage  
2536 South West

Cecil D. Burnett  
West Street Auto Salvage  
2540 South West

✓ Southwest Salvage  
2756 South West

Raymond Riner  
522 North Young

Goodman's Tractor Parts, Inc.  
1504 East 1st

✓ Schmod Auto Parts  
225 East 31st South

DELINQUENT

✓ Earl Powell  
1200 East Mac Arthur

2.9  
16.6

OFFICE OF License

DATE February 25, 1965

TO Russell McClure, City Manager  
FROM Ralph A. Hlose, City Treasurer

SUBJECT Auto Washing Establishments

The office attached applications for an auto washing establishments, as per case for your review before presentation to the City Commission.

I call your attention to the attached memo from Tom H. Lytle of the Central Inspection Division, in which he recommends the applications be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Hlose

cc:

Mr. Lytle  
Mr. Hlose

egg 2-16-65 → Bill's Auto Street Salvage  
2702 N. Maple Rd. 2-12-65

egg 2-16  
RD 3-22-65

McArthur Auto Salvage  
1200 N. McArthur Rd. -

- Schmid Auto, Retail & Auto Salvage  
1257 N. McArthur Rd. - RD 3-27-65

egg 2-16-65

- Schotts Auto Salvage  
2069 S. Broadway -

V. P. ...  
...  
...  
...

egg 3-16

- Schmid Auto Parts  
225 S. 31st St. No. RD 3-27-65

egg 3-16

- Air Capitol Auto Salvage  
415 S. McArthur - RD 5-14-65

Send copy and to egg

egg 3-16

- Hair Auto Salvage  
2901 S. Broadway - RD 3-27-65

Revised 3-18-65

egg 3-16

- Broadway Auto Salvage  
2019 N. Broadway -

THE CITY OF WICHITA

OFFICE OF License

DATE August 27, 1965

9-2  
agenda

TO Russell McClure, City Manager

FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishment

The attached application for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memo from Glen E. Lytle of the Central Inspection Division, in which he recommends the application be approved by the City Commission subject to their consideration of certain recommendations.

*Ralph A. Klose*

Ralph A. Klose  
City Treasurer

RAK:dkl  
2 enc.  
memo  
appl.

Chrisman Auto Salvage Yard  
2756 South West Street



THE CITY OF WICHITA

OFFICE OF CENTRAL INSPECTION DIVISION      DATE      August 26, 1965

TO      Ralph Klose, City Treasurer

FROM      Glen E. Lytle, Superintendent of Central Inspection *GEL*

SUBJECT      2756 South West Street  
Chrisman Auto Salvage  
(Willis E. Chrisman, owner)

The Regulatory License application for Chrisman Auto Salvage Yard has been reviewed as per City Ordinance regulating such operation. This yard is located in the "AA" One-family Dwelling District but carries a Non-conforming Use since it was in operation prior to annexation in 1961 and has remained in continuous operation since 1961.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing of the entire area being used with a metal, wood or masonry fence not less than eight feet in height, and having cracks and openings not in excess of five percent of the area of such fence.

It is further recommended the fencing must be completed within ninety (90) days from the date the license is issued, and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

THE CITY OF WICHITA  
OFFICE OF <sup>Licenses</sup>

DATE March 31, 1965

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishment

The attached application for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

Call your attention to the attached memo from Glen W. Wylie of the Central Inspection Division, in which he recommends the application be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RAK:aa

3 enc.  
2700 B  
appl.

Don's Auto Salvage  
Don Barnett, Owner  
2700 B. West Street

copy - 4-6-65  
Replied 4-7-65

pd 6-21-65

THE CITY OF WICHITA

OFFICE OF CENTRAL INSPECTION DIVISION      DATE      March 31, 1965

TO      Ralph Klose, City Treasurer *RK*

FROM      Glen E. Lytle, Superintendent of Central Inspection *GEL*

SUBJECT      2720 South West Street  
Don's Auto Salvage  
(Don Burnett, owner)

The Regulatory License application for Don's Auto Salvage Yard has been reviewed as per City Ordinance regulating such operation. This yard is located in the "AA" One-Family Dwelling District but carries a non-conforming use since it was in operation prior to annexation in 1961 and has remained in continuous operation since 1961.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing of the entire area being used with a metal, wood or masonry fence not less than eight feet in height, and having cracks and openings not in excess of five percent of the area of such fence.

It is further recommended that the fencing must be completed within ninety (90) days from the date the license is issued, and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

June 2, 1970

Cecil D. Burnett  
West Street Auto Salvage  
2540 S. West St.  
Wichita, Kansas 67217

Dear Sir:

Our records indicate that several billing notices have been mailed to you concerning the necessity of you obtaining a license for auto wrecking as required by Section 3.48.030 of the City Code.

The notices mailed to you are for the license period ending June 30, 1970 and the fee is now \$25.00 plus \$5.00 penalty.

Please consider this your official notice that unless a total of \$30.00 for your auto wrecking license is received in the office of the City Treasurer on or before June 10, 1970 you leave us no alternative but to turn this matter to our Legal Department for their action.

Yours very truly,

Gene Brown  
Deputy City Treasurer

GB:sa

THE CITY OF WICHITA

OFFICE OF License

DATE January 6, 1970



TO Ralph Holt, City Manager

FROM Gene Brown, Deputy City Treasurer

SUBJECT Auto Wrecking Establishment

The two attached applications for an auto wrecking establishment, in fact, need for your review before presentation to the City Commission.

Please call your attention to the attached memo's from R. T. Palmer, Superintendent of Central Inspection in which he recommends the applications be approved by the City Commission subject to their consideration of certain recommendations.

Gene Brown  
Deputy City Treasurer

GP:an

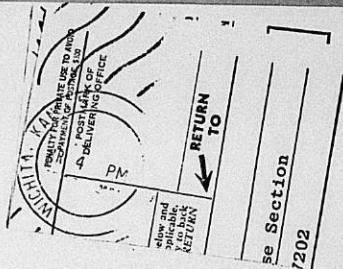
4 enc.  
memo's  
apply.

Wichell Auto Sales & Salvage, 2536 S. West St.  
West St. Auto Salvage, 2540 S. West St.

article to pay:

OPTIONAL SERVICE  
Return receipt for goods  
Deliver to addressee  
Special delivery

Postmarked, stick the gummed return receipt on your rural carrier. (For extra charges) Postmarked, stick the return receipt on the envelope. Detach and retain the receipt. Write the certified-mail number on the return receipt and attach it to the envelope. RETURN RECEIPT (See instructions on the back of the receipt). Place the stamp on the return receipt.



March 3, 1970

Cecil D. Barnett  
West Street Auto Salvage  
2540 S. West Street  
Wichita, Kansas 67217

Dear Sir:

The enclosed City Commission minutes are provided for your review and compliance, also enclosed is your license which expires March 31, 1970.

Your application has been approved by the City Commission, but this approval is subject to the installation of the required fencing by June 30, 1970.

If you have any questions regarding your fencing requirements, please contact Mr. Joe Donnelly, Central Inspection Division, Public Works Department.

Very truly yours,

Gene Brown  
Deputy City Treasurer

GB:je

2 enc.:  
Lic.  
Minutes

cc: Joe Donnelly, Central Inspection Department

THE CITY OF WICHITA  
OFFICE OF License

DATE November 9 1966

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishment  
Mark McClellan Salvage Yard  
2050 Cleveland

The attached application for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memo from Glen E. Lytle of the Central Inspection Division, in which he recommends the application be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RAK:sa

*approved by C.C. 11-15-66*

No 8372

COMMISSIONERS PROCEEDINGS

November 15, 1966

Approved by Board of Comm. Affairs  
this NOV 15 1966

Application from Mark McCallan Salvage Yard, 2950 Cleveland for license to operate auto salvage yard Dept. of Public Works recommendations --

through December 7, 1966 be approved. Motion carried unanimously.

Application from Mark McCallan Salvage Yard, 2950 Cleveland, for license to operate an auto salvage yard, presented. This yard is located in "F" Heavy Industrial zoning district.

Department of Public Works recommended approval subject to the fencing (including gates) of the entire land area being used. The fence must be at least six feet high chain link or woven wire with a three-strand barbed wire extension at the top of the fence, said fencing to be completed within ninety days from the date of City Commission approval. City Manager concurred.

Stevens moved that the application be approved subject to the conditions recommended. Motion carried unanimously.

Approved subject to conditions recommended

Notice of cancellation of Number 1 main lawyer's bond of Robert W. Anderson, written in the United States Fidelity and Guaranty Company, Baltimore, Maryland, in the amount of \$2,000.00, dated December 15, 1964, presented. Anderson moved that the notice of cancellation be received and filed. Motion carried unanimously.

Notice of cancellation of Number 1 main lawyer's bond of Robert W. Anderson, written in the United States Fidelity and Guaranty Company, Baltimore, Maryland, in the amount of \$2,000.00, dated December 15, 1964, presented. Anderson moved that the notice of cancellation be received and filed. Motion carried unanimously.

Contractor's bond of Robert W. Anderson

Notice of cancellation of Contractor's bond of Robert W. Anderson, written in the Maryland Casualty Company, in the amount of \$2,000.00, dated August 11, 1966, presented. Anderson moved that the notice of cancellation be received and filed. Motion carried unanimously.

CERTIFICATES OF INSURANCE: Ted Newland, 479 1/2 Hill West Control

Certificates of insurance of Ted Newland, doing business as Hill West Control, written in the Federal Fidelity and Indemnity Company, for a period expiring December 31, 1967, filed in connection with past control district, presented. Anderson moved that the certificates of insurance be received and filed. Motion carried unanimously.

A & W Iron Works, Inc.

Certificates of insurance of A & W Iron Works, Inc., written in The Western Fidelity and Surety Company, for a period expiring June 31, 1967, filed in connection with two sets of steel walls in alley in rear and to the east of Lots 42, 43, 44 on Wesley Avenue, presented. Anderson moved that the certificates of insurance be received and filed. Motion carried unanimously.

Michita House & Window Cleaning Company

Certificates of insurance of Michita House & Window Cleaning Company, written in the Maryland Casualty Company, for a period expiring January 1, 1967, filed in connection with window cleaning operations, presented. Anderson moved

THE CITY OF WICHITA

OFFICE OF License

DATE October 21, 1966

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishments

The two attached applications for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memos from Glen B. Lytle of the Central Inspection Division, in which he recommends the applications be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RAM:sa

Enc.

2 appl's  
memos

Watkins Auto Salvage  
Ray Watkins  
3051 N. Broadway

Acc Auto Salvage  
Orval Beckel  
3001 N. Broadway

# COMMISSIONERS PROCEEDINGS

November 1, 1966

	<p>3. The permittee be required to file a bond, or the equivalent, in the minimum amount of \$5,000.00 to hold the City harmless of any liability of personal or property damage that may occur in the construction and maintenance of this facility.</p>
approved subject to conditions recommended	<p>City Manager concurred.</p> <p>Stevens moved that the minor street privilege permit be approved subject to the conditions recommended. Motion carried unanimously.</p>
Application of Ace Auto Salvage Yard for license to operate Auto Salvage Yard	<p>Application by Ace Auto Salvage Yard, 3901 North Broadway, Orval Beckel (Owner), for license to operate an Auto Salvage Yard, presented. This salvage yard is located in the "F" - Heavy Industrial Zone.</p> <p>Department of Public Works recommended approval subject to the fencing, including gates, within ninety days from date of issuance of the license, of the entire land area being used, with fence not less than six feet high, of chain link or woven wire with a three-strand barbed wire extension at the top of the fence. City Manager concurred.</p>
Anderson --	<p>Commissioner Anderson inquired if this was going to give them a right to burn and create the problems that was recently experienced with the Salvage Yard and he was informed that smoke was permissible in a Heavy Industrial zone such as this location at 3901 North Broadway.</p>
application approved subject to conditions recommended	<p>Stevens moved to approve the application subject to the conditions recommended. Motion carried unanimously.</p>
Application of Watkins Auto Salvage for license to operate Auto Salvage Yard	<p>Application by Watkins Auto Salvage, 3851 North Broadway, Ray Watkins (Owner), for license to operate an Auto Salvage Yard, presented. This yard is located in both "B" - Heavy Industrial Zone and "AA" Single-family. The "AA" abutts a flood control ditch and carries a nonconforming use since it was in operation prior to annexation in 1962.</p> <p>Department of Public Works recommended approval subject to the fencing, including gates, within ninety days of issuance of the license, of the entire land area being used, with a fence not less than six feet high, of chain link or woven wire and with a three-strand barbed wire extension at the top of the fence. City Manager concurred.</p>
application approved subject to conditions recommended	<p>Stevens moved that the application be approved subject to the conditions recommended. Motion carried unanimously.</p>
State Highway Agreement No. 21-66 Project No. 54-87 K 5186 (2)	<p>State Highway Agreement No. 21-66 Project No. 54-87 K 5186 (2), presented.</p>
City Engineer--	<p>City Engineer reported that it has been recommended that a third lane be added on the north side of U.S. 54 from the turnpike exit to the bridge on Gypsum Creek. If this is done, the developer of K-Mart shopping center will</p>

**THE CITY OF WICHITA**  
OFFICE OF License

DATE February 3, 1965

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer  
SUBJECT Auto Wrecking Establishments

The three attached applications for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memos from Glen E. Lytle of the Central Inspection Division, in which he recommends the applications be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RM:ca

Inc.

6 appl's  
re: 107

cc. - Hansen's Auto Sales & Salvage  
29 - 1316 N. 47th St. South

29 - Moon's Auto Salvage  
713 S. Leonine

29 - Preston R. Taylor Auto Salvage  
529 N. Tracy

*Went out of business  
6-1-65. Per Dwight  
in file.*

*PD 31-65 Real copy 7 minutes  
in file.*

*PD 4-2-65*

*Called Bink 1/13/65*

*Revised  
3-1-65*

APPLICATIONS FOR LICENSES TO OPERATE AUTO WRECKING & SALVAGE YARDS: The following applications for licenses to operate Auto Wrecking and Salvage Yards, presented:

Hansen's Auto Sales and Salvage	1316 West 47th Street South
Koon's Auto Salvage	713 South Beehive Leonine
Preston R. Taylor Auto Salvage	529 North Tracy

Each of the above applicants are located in "AA" Districts but carry a non-conforming use since they were in operation prior to annexation.

Superintendent of Central Inspection recommended that the applications be approved subject to the City Commission granting approval of the fencing of the entire area being used, with a metal, wood, or masonry fence of not less than 8 feet in height, and having cracks and openings not in excess of 5% of the area of such fence. He further recommended that the fencing must be completed within 90 days from the date the license is issued.

City Manager concurred in the recommendation.

City Manager -- In answer to inquiry by Commissioner Stevens, City Manager stated that the applications were submitted in accordance with requirements under the ordinance recently passed (Ordinance No. 27-925, adopted November 10, 1964).

approved subject to recommendations & licenses to be issued. Stevens moved that the applications be approved subject to the conditions recommended by the Superintendent of Central Inspection and the License Collector instructed to issue the proper licenses. Motion carried unanimously.

action of the City Commission should be ~~approved~~ with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

CITY OF WICHITA

OFFICE OF CENTRAL INSPECTION DIVISION DATE March 30, 1965

TO Ralph Klose, City Treasurer

FROM Glen E. Lytle, Superintendent of Central Inspection *DLG*

SUBJECT

4125 South Broadway  
American Auto Salvage  
(Lyle Gloege, Owner)

The Regulatory License Application for American Auto Salvage has been reviewed as per City Ordinance regulating such operation. This yard is located in both "C" Commercial and "E" Light Industrial Zones but carries a Non-conforming Use since it was in operation prior to annexation in 1962.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing, including gates, of the entire land area being used with at least a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top of the fence.

It is further recommended the fencing be completed within ninety (90) days from the date the license is issued, and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

THE CITY OF WICHITA  
OFFICE OF License

DATE March 31, 1965

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer  
SUBJECT Auto Wrecking Establishment

The attached application for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

I call your attention to the attached memo from Wm. W. Lytle of the Central Inspection Division, in which he recommends the application be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RM:ka

3 enc.  
no. 103  
appl.

*Arvonne Carter Darling*

*4125 S. 32nd*

*Large Highway, Kansas*

*Agg. 4-6-65*  
*Revised 4-7-65*

*P.D. 4-13-65*

WICHITA

CENTRAL INSPECTION DIVISION DATE March 24, 1965

TO Ralph Klose, City Treasurer

FROM Glen E. Lytle, Superintendent of Central Inspection *GEL*

SUBJECT 1716 South Richmond  
Middleton Auto Salvage  
(R. O. Middleton, owner)

The Regulatory License application for Middleton Auto Salvage has been reviewed as per City Ordinance regulating such operation. This yard is located in the "AA" One-Family Dwelling District but carries a Non-conforming Use since it was in continuous operation prior to annexation in 1954.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing of Lots 54, 56, 58 and 60, Madrid Avenue, Garfield Park Addition which front on Richmond with a metal, wood or masonry fence not less than eight feet in height, and having cracks and openings not in excess of five percent of the area of such fence.

It is further recommended the fencing must be completed within ninety (90) days from the date the license is issued, and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

THE CITY OF WICHITA  
OFFICE OF License

DATE March 25, 1965

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishment

The attached application for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

To call your attention to the attached memo from Len B. Lytle of the Central Inspection Division, in which he recommends the application be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RM:ca

2 enc.  
memo  
spil.

Hickleton Auto Salvage  
1716 S. Richmond

agg. 4-6-65

RS  
4-12-65

INSPECTION DIVISION DATE February 10, 1965

TO Ralph Klose, City Treasurer  
FROM Glen E. Lytle, Superintendent of Central Inspection

SUBJECT 4123 South Broadway  
G & R Truck & Auto Salvage  
(Fred Gray, owner)

The Regulatory License application for G & R Truck & Auto Salvage has been reviewed as per City Ordinance regulating such operation. This yard is located in both "C" Commercial and "E" Light Industrial Zones but carries a Non-conforming Use since it was in operation prior to annexation in 1962.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing, including gates, of the entire land area being used with at least a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top of the fence.

It is further recommended the fencing must be completed within ninety (90) days from the date the license is issued, and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

INSPECTION DIVISION DATE February 10, 1965

TO Ralph Klose, City Treasurer  
FROM Glen E. Lytle, Superintendent of Central Inspection

SUBJECT

3527 North Broadway  
Rhinart Auto Salvage

The Regulatory License application for Rhinart Auto Salvage has been reviewed as per City Ordinance regulating such operation. This yard is located in both "LC" Light Commercial and "E" Light Industrial Zones but carries a Non-conforming Use since it was in operation prior to annexation in 1961.

It is recommended that the application for license be approved subject to the City Commission granting approval of the fencing, including gates, of the entire land area being used, with at least a six foot high chain link or woven wire fence with a three strand barbed wire extension at the top of the fence; except the west boundary between Market Street and Park Place must be fenced with a metal, wood or masonry fence not less than eight feet in height, and having cracks and openings not in excess of five percent of the area of such fence.

It is further recommended the fencing be completed within ninety (90) days from the date the license is issued and the action of the City Commission should be included and returned with the license. This division would appreciate notification of the action taken so appropriate follow-up inspections may be accomplished.

GEL:rs

cc: Ralph Wulz, Director of Public Works  
L. L. Binkley, Maintenance Inspection Supervisor

THE CITY OF WICHITA  
OFFICE OF Licence

DATE February 15, 1965

Approved by Board of Commissioners  
this FEB 16, 1965 at \_\_\_\_\_

TO Russell McClure, City Manager  
FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishments

The three attached applications for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memos from Glen S. Lytle of the Central Inspection Division, in which he recommends the applications be approved by the City Commission subject to their consideration of certain special provisions.

*Ralph A. Klose*

Ralph A. Klose

RAM:sa

enc. 6  
appl's  
memos

*Rec'd  
4-1-65  
Mr. [unclear]*

~~Merion Auto Salvage  
Henry O. [unclear]  
4153 S. Broadway~~

~~C & R Truck & Auto Salvage  
Fred Gray  
4123 S. Broadway~~

~~Rhinart Auto Salvage  
3527 N. Broadway~~

*She has been asked per Ben, will  
let us know about new ones  
2-22-65. 3-21-65 new ones [unclear]*

*PD. 2-15-65*

*PD 4-7-65*



Auto Sales and Salvage,

# COMMISSIONERS PROCEEDINGS

No 8479

December 20, 1966

Application of  
Cecil D. Burnett,  
West Street Auto  
Salvage, 2540  
South West St.

DEC 20 1966

application  
approved  
subject to  
conditions  
recommended

Application by Cecil D. Burnett, West Street Auto Salvage, 2540 South West Street, for license to operate an Auto Salvage Yard, presented. This yard is located in "F" Heavy Industrial Zoning District.

Department of Public Works recommended approval subject to the fencing within ninety feet of the entire area by a six foot high chain link or woven wire fence with a three strand barbed wire extension at the top. City Manager concurred.

Stevens moved that the application be approved subject to the conditions recommended. Motion carried unanimously.

THE CITY OF WICHITA  
OFFICE OF License

DATE December 13, 1966

TO Russell McClure, City Manager

FROM Ralph A. Klose, City Treasurer

SUBJECT Auto Wrecking Establishments

The two attached applications for an auto wrecking establishment, is forwarded for your review before presentation to the City Commission.

We call your attention to the attached memos from Glen E. Irile of the Central Inspection Division, in which he recommends that applications be approved by the City Commission subject to their consideration of certain recommendations.

Ralph A. Klose

RAK:sa

enc.

2 memos  
2 apps.

West Street Auto Salvage  
Cecil D. Burnett  
2540 S. West St.

Marshall Auto Sales & Salvage  
John A. Marshall  
2536 S. West St.

*approved by C.C. 12-20-66*

*approved by C.C. 12-20-66*

**INSTRUCTIONS TO DELIVERING EMPLOYEE**

Deliver ONLY to address

Show address where delivered

*(Additional charges required for these services)*

**RECEIPT**

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

*Don Burnett*

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

*Don Bush*

DATE DELIVERED

JUN 23 1965

SHOW WHERE DELIVERED (only if requested)

CS-18-71248-1-1 1/10

Don Burnett  
 Don's Auto Salvage  
 11521 S. West Street  
 Wichita, Kansas

Dear Sir:

*@ 2720 S. West St*

The enclosed City Commission minutes are provided for your review and compliance. As you know, the stipulation as listed below is justified as a result of the Auto Towing and Salvage Yard Ordinance adopted November 10, 1964.

Your application has been approved by the City Commission, but this approval is subject to the requirement that fencing must be completed within 90 days from the date the license is issued.

Mr. L. L. Binkley, Central Inspection Division, Public Works Department, has notified me that a representative from his office will contact you shortly concerning your particular fencing needs.

Very truly yours,

Earl E. Brown  
 Deputy City Treasurer

EED:sa

3 enc.  
 lic.  
 ord.  
 minutes

cc: L. L. Binkley, Central Inspection Department

# THE CITY OF WICHITA



## DEPARTMENT OF ADMINISTRATION

CITY TREASURER  
AMHERST 2-8211—AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN—WICHITA, KAN. 67202

December 1, 1969

Mr. John A. Marshall  
Marshall Auto Sales Salvage  
2536 S. West Street  
Wichita, Kansas 67217

Dear Mr. Marshall:

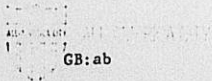
Herein enclosed is Petty Cash refund check #1635 in the amount of \$50.00, for your auto wrecking license which I am returning for the reasons stated in the second paragraph of this letter. Also enclosed is a blank occupational license application form.

It is my understanding the zoning on the property which you presently occupy has been changed from F-Heavy Industrial to E-Light Industrial. The Code of the City of Wichita, 3.48.050 REGULATIONS states that "Fencing shall conform in all respects to the zoning ordinance when applicable". The Code also points out under 28.04.184, "Auto wrecking and salvage yards. Auto wrecking, salvage yards, used material yards, storage or bailing of waste or scrap paper, rags, scrap metals, bottles or junk may be authorized in the "E" light industrial districts by the governing body under a special permit, provided that such operation is not on a main thoroughfare or business street, and in the opinion of the governing body will not adversely affect the character of the neighborhood, is enclosed by a metal or wood fence not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence, subject to any other requirements which may be specified by the governing body".

Please complete the enclosed occupational application and return same to me so that I can initiate the procedure to place your application before the City Commission. If you have any questions concerning the regulations for Auto Wrecking businesses in E zones please contact Joe Donnelly, Central Inspection Division.

Very truly yours,

Gene Brown  
Deputy City Treasurer



GB:ab

THE CITY OF WICHITA



DEPARTMENT OF ADMINISTRATION  
CITY TREASURER  
AMHERST 2-8211 — AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN — WICHITA, KAN. 67202

*License*

June 29, 1970

Mr. John A. Marshall  
Marshall Auto Sales Salvage  
2536 S. West Street  
Wichita, Kansas 67217

Dear Mr. Marshall:

The Director of Law has asked me to inform you regarding the status of your current auto wrecking license #51869, which expires June 30, 1970.

On February 19, 1970, I mailed your auto wrecking license, to expire March 31, 1970, and a copy of the City Commission minutes which required the installation of E-Light Industrial fencing by June 30, 1970.

Please consider this your official notice that unless the fence is completed by June 30, 1970, you leave us no alternative but to institute appropriate legal proceedings on July 1, 1970.

Very truly yours,

Gene Brown  
Deputy City Treasurer

GB:ab

cc: Ralph Wulz, City Manager  
Ralph A. Klose, City Treasurer  
R.W. Bruggeman, Director of Public Works  
Robert Feldner, Superintendent of Central Inspection Division  
John Dekker, Director of Law  
Jack Galbraith, Planning  
Joe Donnelly, Maint. Inspection Supervisor  
Earl Van Long, Jr.

THE CITY OF



DEPARTMENT OF ADMINISTRATION  
CITY TREASURER  
AMHERST 2-8211 — AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN — WICHITA, KAN. 67202

*Lucas*

June 29, 1970

Mr. Cecil D. Burnett  
West Street Auto Salvage  
2540 S. West Street  
Wichita, Kansas 67217

Dear Mr. Burnett:

The Director of Law has asked me to inform you concerning your present auto wrecking operation at 2540 S. West Street.

As you will recall, my correspondence to you dated March 3, 1970, included the City Commission minutes which required the installation of E-Light Industrial fencing by June 30, 1970.

Please consider this your official notice that unless the fence is completed by June 30, 1970, you leave us no alternative but to institute appropriate legal proceedings on July 1, 1970.

Very truly yours,

Gene Brown  
Deputy City Treasurer

GB:ab

cc: Ralph Wulz, City Manager  
Ralph A. Klose, City Treasurer  
R.W. Bruggeman, Director of Public Works  
Robert Feldner, Superintendent of Central Inspection Division  
John Dekker, Director of Law  
Jack Galbraith, Planning  
Joe Donnelly, Maint. Inspection Supervisor  
Earl Van Long, Jr.

from: \_\_\_\_\_ date: \_\_\_\_\_

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remarks: *What has been done with this?*

from: LYTLE date: 3-10

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remarks:

MTG - LAW DEPT CONF  
RM. - MAR 11 - FRI

Additions underlined  
Deletions marked thus

Proposed Amendment to the  
Zoning Ordinance of the  
City of Wichita, Kansas

It is proposed to amend Sections 28.04.120 and 28.04.184 to set forth the procedures for the authorization of auto wrecking, salvage yards and similar operations when such are to be located in the "E" Light Industrial district by special permit.

Section 28.04.120 B-1-(g) shall be amended as follows:

(g) New building materials storage yard.

Section 28.04.120 B-1 shall be amended by adding the following to the uses permitted:

(x) Uses listed in Section 28.04.184, only when approved in the manner therein provided.

Section 28.04.184 shall be amended to read as follows:

28.04.184 Exceptions to use regulations - Auto wrecking and salvage yards. Auto wrecking, salvage yards, used material yards, storage or bailing of waste or scrap paper, rags, scrap metals, bottles or junk may be authorized in the "E" light industrial districts by the governing body under a special permit, provided that such operation is not on an arterial or expressway as designated a main thoroughfare or business street, and in on Map 13A of the transportation plan element of the comprehensive plan; provided an application shall first be submitted to the planning commission who shall hold a hearing and make a recommendation on the application. Any such operation approved shall be the opinion of the governing body will not adversely affect the character of the neighborhood, is enclosed by a metal or wood fence not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence; in the opinion of the planning commission such operation will not adversely affect the character of the neighborhood; all waste paper, rags or other materials that can be scattered by the wind shall be kept within an enclosed building; subject to any other requirements which may be specified by the governing body, and that all waste paper, rags or materials that can be scattered by the wind shall be kept in a building suitable for that purpose, and provided further, that the planning commission and the governing body board of commissioners may impose such additional special conditions to protect the health, safety and welfare of the neighborhood as the they board of commissioners may deem proper, including (but not limited to), the posting of a performance bond.

from: LYTLE date: 3-17

admin. adv. plans cur. plans social graphics

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|                                    | <input type="checkbox"/> schranz     |   | <input type="checkbox"/> comment       | <input type="checkbox"/> files                  |
|                                    | <input type="checkbox"/> wilson      |   | <input type="checkbox"/> note & return | <input type="checkbox"/> signature              |
|                                    | <input type="checkbox"/> mcadden     |   | <input type="checkbox"/> handle        | <input type="checkbox"/> library                |

remarks: sent to msp. 3-17

WICHITA-SEDGWICK COUNTY

DATE

March 16, 1977

**METROPOLITAN AREA PLANNING DEPARTMENT**

TO E. H. Denton, City Manager  
FROM Robert A. Lakin, Director of Planning  
SUBJECT Possible amendment to the zoning ordinance  
Re: Special permits for salvage yards and  
scrap processors.

Attached hereto is a delineated copy of a possible amendment to the zoning ordinance related to the establishment of salvage yards, scrap processors and similar operations in the 'E' Light Industrial district by special permit. This possible amendment was prepared as a joint effort by representatives of the Planning Department, Law Department and the Central Inspection Division.

BACKGROUND

Although the provision for requiring special permits for such uses in the light industrial districts has been in the zoning ordinance for at least 45 years, very few special permits have been granted by the City Commission. A large majority of such uses have been annexed into the community and are thus continuing as nonconforming uses.

As a matter of policy (at least the past 15 years) when an application for a special permit was filed with the City Commission, it has been referred to the Planning Commission for a recommendation. In order to expedite an application, it is proposed to amend Section 28.04.184 to include the provision that an application first be filed and a hearing held before the Planning Commission and a recommendation be made to the City Commission.

The Department of Law has experienced some difficulty with this provision of the ordinance due to the court's interpretation of what constitutes a salvage or junk yard as compared to a used building materials storage yard. There has also been a problem with the terms used in the regulation related to a main thoroughfare or business street. These terms have been in the ordinance for over 45 years and is difficult to determine the intent as related to the terminology of the designations used for streets today.

Uses permitted in the 'C' Commercial and the 'D' Central Business districts are also permitted in 'E' Light Industrial district. Junk, used material, auto wrecking, salvage yards, etc. are prohibited in each of these districts except where such activities

E. H. Denton, City Manager  
March 16, 1977  
Page 2

are conducted entirely within an enclosed building. It is proposed to change the wording of Section 28.04.184 to set forth that such operations not conducted entirely within an enclosed building be required to file for a special permit.


SUMMARY

Under Section 28.04.120 B (Uses permitted in the 'E' light industrial district.) paragraph (g) would be amended to permit only new material storage yards. Also paragraph (x) would be added for clarification of when such uses would be permitted by special permit.

Section 28.04.184 is proposed to be amended to require an application to be filed with the Planning Commission for a hearing and recommendation prior to being forwarded to the City Commission for final action. The language is also changed for clarification of location and requirements.

RECOMMENDATION

If the proposed amendment is reasonably satisfactory with the City Commission, forward the proposal, along with comments, to the Metropolitan Area Planning Commission for their recommendation after a public hearing as required by law.

  
Robert A. Lakin  
Director of Planning

RAL:GEL:rme  
Attachment

cc: John Dekker, Director of Law  
Ray Bruggeman, Director of Public Works  
Robert B. Feldner, Superintendent of Central Inspection

Additions underlined  
Deletions ~~marked thus~~

Proposed Amendment to the  
Zoning Ordinance of the  
City of Wichita, Kansas

It is proposed to amend Sections 28.04.120 and 28.04.184 to set forth the procedures for the authorization of auto wrecking, salvage yards and similar operations when such are to be located in the "E" Light Industrial district by special permit.

Section 28.04.120 B-1-(g) shall be amended as follows:

(g) New building materials storage yard.

Section 28.04.120 B-1 shall be amended by adding the following to the uses permitted:

(x) Uses listed in Section 28.04.184, only when approved in the manner therein provided.

Section 28.04.184 shall be amended to read as follows:

28.04.184 Exceptions to use regulations - Auto wrecking and salvage yards. Auto wrecking, salvage yards, used material yards, storage or bailing of waste or scrap paper, rags, scrap metals, bottles or junk, scrap processors and other similar uses when such activities are not conducted entirely within an enclosed building, may be authorized in the "E" light industrial districts by the governing body under a special permit, provided that such operation is not on an arterial or expressway as designated a main thoroughfare or business street, and in on Map 13A of the transportation plan element of the comprehensive plan; and provided further an application shall first be submitted to the planning commission who shall hold a hearing and make a recommendation on the application. Any such operation approved shall be the opinion of the governing body will not adversely affect the character of the neighborhood, is enclosed by a metal or wood fence not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence; in the opinion of the planning commission such operation will not adversely affect the character of the neighborhood; all waste paper, rags or other materials that can be scattered by the wind shall be kept within an enclosed building; subject to any other requirements which may be specified by the governing body, and that all waste paper, rags or materials that can be scattered by the wind shall be kept in a building suitable for that purpose, and provided further, that the planning commission and the governing body board of commissioners may impose such additional special conditions to protect the health, safety and welfare of the neighborhood as the they board of commissioners may deem proper, including (but not limited to), the posting of a performance bond.

THE CITY OF WICHITA

OFFICE OF

DATE 7-14-78



TO Gene Brown, Deputy City Treasurer

FROM License Dept.

SUBJECT List of Auto Wrecking Company

Wayne Castle  
Foreign Cars Unlimited  
2319 No. Broadway

C. L. Hall & Sons  
1530 West MacArthur

M. W. Briley  
Briley Auto Salvage  
3501 So. Broadway

Rhinart's Salvage  
3527 North Broadway

Fred Gray  
G & R Motors  
4123 So. Broadway

Glenn H. Deagley  
B & B Auto Salvage  
4153 So. Broadway

Mark McClellan  
2050 Cleveland

Truck Parts Equipment Co.  
4501 West Esthner

Larry Burkholder  
Koon's Repair, Inc.  
713 So. Leonine

Don Schmid  
Schmid Iron Metal & Auto Salvage  
125 West Mac Arthur

Herbert S. Thornell  
Chrisman Auto Salvage  
3703 Maple

R. O. Middleton  
1716 So. Richmond

Hayes Auto Salvage  
2500 So. West

John A. Marshall  
Marshall Auto Sales Salvage  
2536 South West

Cecil D. Burnett  
West Street Auto Salvage  
2540 South West

Southwest Salvage  
2756 South West

Raymond Riner  
522 North Young

Goodman's Tractor Parts, Inc.  
1504 East 1st

Schmød Auto Parts  
225 East 31st South

DELINQUENT

Earl Powell  
1200 East Mac Arthur

THE CITY OF WICHITA  
OFFICE OF

DATE 7-14-78



TO Gene Brown, Deputy City Treasurer  
FROM License Dept.

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Earl Powell  
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THE CITY OF WICHITA

OFFICE OF

DATE 7-14-78



TO Gene Brown, Deputy City Treasurer  
FROM License Dept.

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DELINQUENT

Earl Powell  
1200 East Mac Arthur

THE CITY OF WICHITA

OFFICE OF

DATE 7-14-78



TO Gene Brown, Deputy City Treasurer

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DELINQUENT

Earl Powell  
1200 East Mac Arthur

# KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



O. D. TURNER, Secretary of Transportation

ROBERT F. BENNETT, Governor

August 30, 1978



Mr. Glen E. Lytle  
Special Assistant for Zoning  
City Hall - 10th Floor  
455 North Main  
Wichita, Kansas 67202

Dear Mr. Lytle:

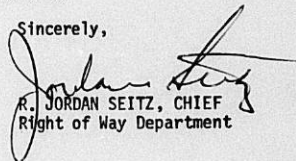
Mr. Turner has asked me to respond to your letter of August 16, 1978, regarding junkyard screening requirements used by the Kansas Department of Transportation.

Attached is a copy of K.A.R. 36-27-9 which provides the general guidelines for junkyard screening requirements. Specific screening plans are developed for each location by the field landscape architect.

Under state law, locations in zoned or unzoned industrial areas are not required to be screened. Newly created junkyards within 1000 feet of interstate or federal-aid primary highways (other than those in industrial areas) must be screened in such a manner that the salvage materials are not visible to passing motorists. When developing screening plans for locations adjacent to roadways other than the two mentioned above, such factors as surrounding land use, traffic volume, attitudes of surrounding property owners, etc. are considered.

If you have any questions, please let me know.

Sincerely,

  
R. JORDAN SEITZ, CHIEF  
Right of Way Department

RJS:em

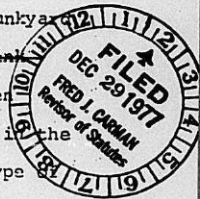
Attd.

AGENCY-36

36-27-9. Types of screening approved. Either artificial or natural screening may be used to conceal a junkyard from the view of motorists traveling on the road. All ~~junkyards requiring screening, in order to insure that same will be hidden from the view of motorists using the road,~~ shall be ~~screened of with a type of screening~~ approved by the ~~state salvage board~~ beautification administrator. The screening ~~must~~ shall be serviceable as well as pleasing to sight. Screening, ~~as recommended by the landscape architect's office of the highway commission~~ may be effected by the construction of a fence ~~built either of metal, or wood or other suitable material or by planting shrubs, trees or other types of natural screening or a combination of these methods as approved by the board beautification administrator.~~ ~~Where~~ When wooden planks or a chain-link fence are to be installed at a junkyard location, the ~~planks or chain-link fence installation~~ shall not permit the junkyard to be seen from the road by a motorist. ~~In the case of wooden~~ Wooden planks, ~~such~~ shall be installed in such a proximity manner to each other that no storage in the junkyard can be seen from the road, ~~and in the case of a chain-link fence installation,~~ metal Metal slats shall be interwoven into the chain-link fence to the degree that no storage in the junkyard can be seen from the road. ~~in either~~ Either type of fencing, ~~such~~ must be of sufficient height to achieve the screening necessary ~~according to the individual situation and shall be of uniform height throughout its length unless the~~ APPROVED as to form and legality.

**APPROVED**  
Dept. of Admin.  
by mus

**APPROVED** as to  
form and legality.  
Attorney General  
by [Signature] Ass't



~~state salvage board~~ beautification administrator approves a variation in such height. (Authorized by 197<sup>7</sup> Supp. 68-2212; effective Jan. 1, 1972; amended May 1, 1978.)



APPROVED as to form and legality.  
Attorney General  
by [Signature] Ass't.

APPROVED  
} Dept. of Admin.  
by mws

August 18, 1978

E.H. Denton, City Manager

Robert A. Lakin, Director of Planning

**Screening Requirements for Salvage Yards**

As per instructions of the City Commission on July 11, 1978 the following is a review of the code requirements for the screening of salvage yards and junk yards.

**SUMMARY OF SCREENING REQUIREMENTS.**

The zoning ordinance regulates the location of the establishment of automobile wrecking, junk yards, salvage, used material, paper, scrap, bottles or rags, and baling or storage of such materials in the following manner:

- "LC" - Light Commercial District. None of the above permitted.
- "C" - Commercial District. Auto wrecking yard not permitted. All other uses listed above would be permitted if located within an enclosed building.
- "D" - Central Business District. All uses listed above would be permitted if located within an enclosed building.
- "E" - Light Industrial District. All uses listed above would be permitted if located within an enclosed building.

All such uses may be permitted outside of enclosed buildings by special permit by the Governing Body providing such use is not on a main thoroughfare or business street, and in the opinion of the Governing Body it will not adversely affect the neighborhood. Such uses permitted are required to be enclosed by a metal or wood fence not less than eight feet in height with openings not in excess of 5% of the area of such fence. Any material that can be scattered by the wind shall be kept inside a building. The Governing Body may also impose such additional conditions to protect the health safety and welfare of the neighborhood.

"F" - Heavy Industrial District. All above uses permitted without limitations.

The zoning ordinance also requires the screening of new commercial or industrial uses when adjacent to residentially zoned properties.

Many of the existing salvage (auto wrecking) yards were annexed into the City as nonconforming uses. Therefore, unless otherwise regulated may continue without having to provide fences or be inside a structure. In addition to the zoning regulations the City code also provides for the licensing on an annual basis motor vehicle wrecking yards, scrap processors, second hand dealers and pawn brokers.

Chapter 3.48 requiring a license for Motor Vehicle Wrecking businesses set forth building and fence requirements as follows:

"The activities of a motor vehicle wrecker shall be conducted entirely within an enclosed building; provided, that should the property so used exceed an area of fifteen thousand square feet, the board of commissioners may grant permission to enclose the property with a fence or wall, and no motor vehicle or part thereof shall be parked, stored or displayed on the outside of such building, fence or wall. Fencing shall conform in all respects to the zoning ordinance when applicable. Solid fencing requirements may be waived by the board of commissioners for nonconforming uses, when the property is not adjacent to residential zoning districts, and the property is enclosed by a six foot high, chain link or woven wire fence, with a three strand barbed wire extension at the top completely enclosing the business operation.

Premises which may not conform with the building or the fence requirement of this section, but at which the business of a motor vehicle wrecker is being conducted on November 13, 1964, shall be brought into conformity with this section within ninety days after such date."

The existing Charter ordinance requiring a license for pawnbrokers, secondhand dealers, and scrap processors (Junk dealers) does not have any requirements for fencing or screening of the uses from adjacent property.

Attached to this report is a response from the Department of Law regarding the application of the existing regulations and under what authority changes or additional requirements for screening might be adopted.

E.H. Denton  
August 18, 1978  
Page Three

#### ANALYSIS OF EXISTING REGULATIONS

In reading the ordinance and discussing the problem with Central Inspection, License (Treasurer Office) and Law, the following observations are offered:

1. The requirements of the zoning ordinance are not retroactive and do not apply to many of the auto-wrecking yards, salvage yards etc. that have been annexed into the city and are nonconforming uses.
2. The standards for screening fences within the zoning ordinance which are also referred to by the licensing ordinance have produced a variety of types of fencing. Some fencing constructed under the provisions of these ordinances have been accepted as in compliance with the ordinances by Central Inspection even though its appearance is no better than the material that is being screened by the fence.
3. The terms referred to as main thoroughfare or business street are not defined in the ordinance and may be unrealistic as to limiting the location of these types of businesses.
4. Solid fencing requirements have been waived by the previous Governing Bodies for 12 of the 20 automobile wrecking locations under the licensing provision. The majority of these waivers have been for nonconforming uses or those located in the "F" Heavy Industrial District.

If fencing is desired, the existing licensing ordinance can be used to accomplish screening. As the license comes up for renewal, if conditions prevail (such as new development, poor condition of wrecking yard) we are of the opinion that the previous waivers may be revoked and fencing required. This would be the solid fence not to exceed 5' opening referred to in the zoning ordinance. Without further revisions to the City Code, it is doubtful that additional conditions as to material, color, paint, etc could be required.

Of those who have been required to have a fence, many have not maintained it. Enforcement is a continuing problem, for Central Inspection. Even when blown down and required to be fixed up, they often are back down after the next wind. In summary, enforcement has been difficult and frankly not very intensive or consistent over time.

E.H. Denton  
August 18, 1978  
Page Four

RECOMMENDATION

1. Establish screening standards for all types of uses such as automobile wreckers, scrap processors, and other similar outdoor storage and sales areas and require that an annual review of the condition of the screening fence be made before the renewal of the license. The standard should include the type of fence acceptable to the Commission. Such screening type fence should be adjacent to any public right-of-way and should be returned along the side property line a reasonable distance for visual effect. The remainder of the property would then be fenced with chain link or woven wire for security purposes or be required to be solid screening as determined by the Governing Body (based on need due to visibility from public roadways or buildings and/or the type and quality of adjoining development either residential or industrial).
2. Amend the zoning ordinance to establish the same standards for screening of all new uses falling into the licensing requirements as previously stated and also require all outdoor storage areas used for wrecked vehicles, contractors equipment and supplies, used building material, scrap processing operations and similar businesses.
3. Eliminate the requirement that new auto wrecking and scrap processors may not be located on a main thoroughfare or business street and permit such uses by the Board of Zoning Appeals subject to screening requirements after notification of adjacent property owners and a public hearing.
4. Review all existing screening fences prior to relicensing, and require replacement or improvements that would be acceptable to the Governing Body.

*Reduction*

*? fence/leak  
etc.*

Robert A. Lakin  
Director of Planning

RAL:GEL:gb  
Attachment

cc: Ray Bruggeman, Director of Public Works  
John Dekker, Director of Law  
Robert Feldner, Superintendent of Central Inspection  
Ralph Klose, City Treasurer

WICHITA-SEDGWICK COUNTY

DATE

August 1, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO John Dekker, Director of Law  
FROM Glen E. Lytle, Special Assistant for Zoning  
SUBJECT Screening Requirements for Salvage Yards.

The planning department has been assigned the responsibility for review and recommendations for possible changes to the regulations for screening of salvage and junk yards. In reviewing the administration of the licensing provisions for Motor Vehicle Wrecking (Chapt. 3.48) with Feldner and Donnelly of Central Inspection, this department would like an opinion from the Department of Law on each of the following:

1. Can the requirements of Chapt. 3.48 related to fencing be required on any new auto salvage yard that might be annexed into the City of Wichita?
2. Should a licensed Motor Vehicle Wrecking yard fail to maintain a fence that was required prior to receiving a license, should the license be withheld until the fence is repaired?
3. If a Motor Vehicle Wrecker installs a fence that is not satisfactory to the Board of City Commissioners, what action may the City Commission take under the present ordinance to require a different fence? Can this be reviewed at each renewal date?
4. Should the Board of Commissioners decide that all obnoxious or nuisance type uses be required to be screened from public view, under what authority would the City adopt such regulations?

I have informally discussed this matter with Mr. Kuhn, but he indicated that a written request should be made for assignment.

APPROVED BY:

Glen E. Lytle  
Special Assistant  
for Zoning

Robert A. Lakin  
Director of Planning

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE August 17, 1978



TO GLEN E. LYTLE, Special Assistant for Zoning

FROM H. R. KUHN, Assistant City Attorney

SUBJECT Screening requirements  
for salvage yards

Your request of August 1, 1978 for an opinion concerning the above noted matter was handed to me for review and response. This is to generally confirm what was discussed with you and Mr. Lakin on August 15th.

In answer to the questions posed by you, it is the opinion of the Department of Law that:

1. The fencing requirements of the City Code to which you refer can be applied to new auto salvage yards that might be annexed into the City of Wichita. Of course, the application of the requirements must be uniform as applied to both existing as well as any new salvage yards.

2. A failure to properly maintain a fence would justify the withholding of the renewal license until compliance has been achieved. The basic purpose of "licensing" requirements on a regular basis is to insure compliance with the Code provisions.

In this connection, it would be my recommendation that reasonable notice be given any licensee of the known violations and a warning of the intent to withhold the renewal license unless the Code requirements are satisfied.

3. This question presents a somewhat more difficult problem. You will recall that we discussed the ramifications of this problem and concluded that more definitive standards should be developed under which the City Commission could then act. As I understand the situation there are presently all types of fencing employed many of which have been approved in the past. Approval of a particular type of fencing at the time of the issuance of a license is one thing. A failure to properly maintain such fencing is another. Again, the matter can be reviewed at the license renewal date. If more definitive standards are adopted as suggested, then situations could arise where a different type of fencing might be required.

The fourth question presented by you cannot be answered with any degree of certainty at this time. The Courts are divided on

Glen E. Lytle, Special Assistant for Zoning  
August 17, 1978  
Page 2.

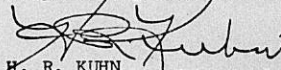
whether or not solid screening or fencing is a reasonable exercise of the police powers from which the authority would have to come. To justify screening from public view the action would have to be based on the public interests of health, safety, morals and general welfare. The Courts of some states have permitted such screening requirements and have justified the same on considerations other than aesthetics alone. Other Courts, on the other hand, have approached the question on considerations of aesthetics primarily and have held such requirements to be unreasonable.

In this connection the provisions of Chapter 68 K.S.A. (Highway Beautification Act) may have considerable influence. The state statute makes it rather clear that the Department of Transportation may require screening or fencing from public view of all junk yards not located in industrially zoned districts. Much will depend upon the type of rules and regulations that have been adopted by the Secretary of Transportation in this connection. The statute covers those junk yards located in cities as well as elsewhere.

It is my understanding that you have requested from the Department of Transportation the rules and regulations which the State Board may have adopted under the statute. After you have received the same we can review them to determine what additional local action the City of Wichita may want to take. K.S.A. 68-2210 specifically contemplates that local ordinances, regulations or resolutions may be more restrictive than the state statute.

In conclusion, I would again suggest waiting until we have in hand the rules and regulations of the Department of Transportation and their licensing procedures before making any final determination as to what should be done locally.

Respectfully submitted,



H. R. KUHN  
ASSISTANT CITY ATTORNEY

HRK:mb  
cc: John Dekker

August 16, 1978

Mr. O. D. Turner  
Secretary of Transportation  
State Office Building  
Topeka, KS 66612

Dear Mr. Turner:

The City of Wichita is presently reviewing the regulations on junkyards and salvage yards with a possibility of amending our existing regulations. In working with our Department of Law on possible alternatives to be presented to the Governing Body for their consideration, it was suggested that we have available the screening requirements used by the State of Kansas for such uses.

A copy of these requirements at your earliest convenience would be greatly appreciated.

Sincerely,

Glen E. Lytle  
Special Assistant for Zoning

GEL:vn

August 1, 1978

John Dekker, Director of Law  
Glen E. Lytle, Special Assistant for Zoning  
  
Screening Requirements for Salvage Yards.

The planning department has been assigned the responsibility for review and recommendations for possible changes to the regulations for screening of salvage and junk yards. In reviewing the administration of the licensing provisions for Motor Vehicle Wrecking (Chapt. 3.48) with Feldner and Donnelly of Central Inspection, this department would like an opinion from the Department of Law on each of the following:

1. Can the requirements of Chapt. 3.48 related to fencing be required on any new auto salvage yard that might be annexed into the City of Wichita?
2. Should a licensed Motor Vehicle Wrecking yard fail to maintain a fence that was required prior to receiving a license, should the license be withheld until the fence is repaired?
3. If a Motor Vehicle Wrecker installs a fence that is not satisfactory to the Board of City Commissioners, what action may the City Commission take under the present ordinance to require a different fence? Can this be reviewed at each renewal date?
4. Should the Board of Commissioners decide that all obnoxious or nuisance type uses be required to be screened from public view, under what authority would the City adopt such regulations?

I have informally discussed this matter with Mr. Kuhn, but he indicated that a written request should be made for assignment.

APPROVED BY:

Glen E. Lytle  
Special Assistant  
for Zoning

\_\_\_\_\_  
Robert A. Lakin  
Director of Planning

August 7, 1978

Robert G. Finch, Deputy City Manager

Robert A. Lakin, Director of Planning

Screening Requirements for Salvage Yards

A two week extension is requested for the report and recommendation on the screening of salvage and junk yards.

The additional time is needed for a legal opinion on the alternatives available to the Commission should the ordinances be changed.

Robert A. Lakin  
Director of Planning

RAL:GEL:el

No home in use up enforcement.  
- plan -

check ST law.  
[Check Woodworkhouse]

Check: Salvage yd lute  
to telephone lute

- : Recheck as to valid evidence?
- : Determine who is in compliance.

check for BCC approval

- 1) but not lldg - reject
- 2) warning on wall.
- 3) BZA variance

alt. - Screening from public st.

- performance strike as to structural.

st d for aesthetics:  
alt - design criteria - color, texture, req it  
- min; painted

**THE CITY OF WICHITA**

**OFFICE OF** CITY MANAGER

**DATE** July 13, 1978



**TO** Robert A. Lakin, Director of Planning

**FROM** Robert G. Finch, Deputy City Manager

**SUBJECT** Screening Requirements for  
Salvage Yards

On July 11, 1978, the City Commission requested that a review be made of the Code requirements for the screening of salvage and junk yards.

Please accept lead responsibility for such a review and recommendations for possible changes to this Code.

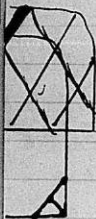
Your report and recommendation are requested for the agenda of August 15, 1978.

A handwritten signature in cursive script, appearing to read "R. G. Finch".

Robert G. Finch  
Deputy City Manager

RGF/pd

cc: R. W. Bruggeman, Director of Public Works  
Robert Feldner, Superintendent of Central Inspection



3-48-050-

All motor vehicle wrecks made fully  
NC over 15m of BCC May approve when  
enclosed by fence - (to conform to zone and =95% solid -  
<sup>bonnet</sup>

Fencing may be waived by BCC for NC uses  
when not adjacent to residential zoning district + 6'  
chain links etc. // bank wires.

90 days.

50/letter.

List of yards -

Check City Clerk for Waiver.  
" (fields for compliance)  
Determine responsibility for enforcement.

Check list for NC or Conforming.

Check legal for problem.

Recommend changes in Title 3:48 if needed.

**THE CITY OF WICHITA**  
OFFICE OF City Treasurer

DATE July 17, 1978



**TO** Robert Lakin, Planning Department Director

**FROM** Gene Brown, Deputy City Treasurer

**SUBJECT** Current Licensed Auto Wreckers

Herein attached is a list of the City of Wichita's Auto Wrecking licensees as per your telephone request of July 14, 1978.

Gene Brown  
Deputy City Treasurer

GB:po

Enc. 1



**THE CITY OF WICHITA**

**OFFICE OF**

**DATE** 7-14-78



**TO** Gene Brown, Deputy City Treasurer

**FROM** License Dept.

**SUBJECT** List of Auto Wrecking Company

Wayne Castle  
Foreign Cars Unlimited  
2819 No. Broadway

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2050 Cleveland

Truck Parts Equipment Co.  
4501 West Esthmer

Larry Burkholder  
Koon's Repair, Inc.  
713 So. Leonine

Don Schmid  
Schmid Iron Metal & Auto Salvage  
125 West Mac Arthur

Herbert S. Thornell  
Chrisman Auto Salvage  
3703 Maple

R. O. Middleton  
1716 So. Richmond

Hayes Auto Salvage  
2500 So. West

John A. Marshall  
Marshall Auto Sales Salvage  
2536 South West

Cecil D. Burnett  
West Street Auto Salvage  
2540 South West

Southwest Salvage  
2756 South West

Raymond Riner  
522 North Young

Goodman's Tractor Parts, Inc.  
1504 East 1st

Schmod Auto Parts  
225 East 31st South

**DELINQUENT**

Earl Powell  
1200 East Mac Arthur