

AN ORDINANCE OF THE CITY OF GRAND PRAIRIE, TEXAS, AMENDING ARTICLE XX "AUTOMOTIVE RELATED BUSINESS REGULATIONS, OF CHAPTER 13 OF THE GRAND PRAIRIE CODE OF ORDINANCES TO MODIFY DEFINITIONS, ADD REFERENCES TO OTHER PROVISIONS COMMONLY VIOLATED, AND ADD OPERATIONAL REQUIREMENTS AND RESTRICTIONS RELATED TO STORAGE AND RECORD KEEPING; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AFTER PASSAGE, APPROVAL, AND PUBLICATION

WHEREAS, the Environment Services Department has been restructured since the last amendment to Article XX; and

WHEREAS, catalytic converters are regularly stolen and illegally sold and the required retention of catalytic converter related documents would assist in combatting and investigating such offenses; and

WHEREAS, the repair and storage of vehicles and vehicle parts can have an adverse effect on the environment if not done correctly; and

WHEREAS the regulation of Automotive Related Businesses is necessary for the public health and safety of the citizen of Grand Prairie.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS THAT:

SECTION 1. Chapter 13, Article XX of the Grand Prairie Code of Ordinances shall be amended throughout to replace the phrase "Environmental Services Manager" with "Environmental Quality Manager" throughout Article XX.

SECTION 2. The definition for "Environmental Services Manager" in Section 13-533 shall be replaced with a definition for "Environmental Quality Manager" which shall read as follows:

"Environmental Quality Manager. The director or manager designated by the City Manager to oversee environmental quality within the City."

SECTION 3. The definitions in Section 13-533 for "Motor Vehicle or Vehicle" and "Tank System: shall be modified to read as follows:

"Motor Vehicle or Vehicle. A watercraft, an all-terrain vehicle, a motorcycle, an off-road vehicle, or a motor vehicle as defined by Texas Transportation Code Section 501.002, as amended."

"Tank System. Above-ground tank or underground tank and any distribution equipment."

SECTION 4. Section 13-534 shall be modified to read as follows:

"Section 13-534. Permit Requirement and Application.

- (a) A person commits an offense if the person operates or causes to operate an Automotive Related Business without a valid permit issued by the City for the particular type of business to be operated. The fact that a person possesses other types of State or City permits/licenses does not exempt that person from the requirement of obtaining a permit for an Automotive Related Business as required by this Article.
- (b) Any person, association, firm, partnership or corporation desiring to obtain an Automotive Related Business permit shall make application on a form provided by the Environmental Quality Manager. The application shall include, but is not limited to, the name and address of each applicant, designation of person responsible for business operations, a copy of a government issued identification for each applicant, the proposed location and activities of the proposed Automotive Related Business. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including which parking spaces will be used for the operation of the business. Parking spaces in a shared

parking lot may only be designated for one Automotive Related Business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale and drawn with marked dimensions.

- (c) The application for an Automotive Related business permit shall include a notarized acknowledgement signed by the property owner acknowledging that:
 - 1. The applicant intends to operate an Automotive Related Business on the premises
 - 2. A valid Certificate of Occupancy and Automotive Related Business permit are required for the legal operation of the business, and
 - 3. The property owner is not relieved from their responsibility or liability under local, state, or federal law for nuisances, environmental violations, and other violations of law on the premises.
- (d) An individual person who wishes to operate an Automotive Related Business must sign the application for a permit as applicant. If a person who wishes to operate an Automotive Related Business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a permit as applicant. Each shall be considered a Permittee if a permit is granted.
- (e) All applications for a permit under this Article shall be accompanied by a nonrefundable application fee. An application shall not be considered to have been received until the fee is paid and all information required by the application form has been submitted. The application fee shall not be prorated in the event an application is tendered before or during the licensing period.
- (f) An applicant for an Automotive Related Business must first obtain an appropriate Certificate of Occupancy and any required Specific Use Permit for the Automotive Related Business from the City. The applicant must specify on the face of its application for a Certificate of Occupancy that the proposed use is for an Automotive Related Business and give the name and address of the applicant's contact person for all communications and notices.
- (g) *Incomplete Applications.* An application which does not include all requested information, including the parking plan, acknowledgement from the property owner, or any other required attachment to the application, shall be considered incomplete. The City will notify the applicant within fifteen (15) calendar days of the application being submitted whether the application is complete or incomplete. The notification that an application is incomplete should include a statement concerning what information is needed to complete the application.
- (h) The permit, if granted, will be valid until suspended, revoked, or surrendered. A permit is surrendered when returned to the City by the owner, when there is a change in ownership of the business, when a new Automotive Related Business permit is issued to the business, or when the business ceases operating at the location specified on the permit. When a permit is surrendered, the owner shall return said permit to the Environmental Quality Manager.
- (i) The permit shall state on its face the name of the person or persons to whom it is granted, the name of the Automotive Related Business, the issue date, the address of the Automotive Related Business, and the Permitted Uses of the Automotive Related Business. The permit is valid only for the specific business, location, and uses specified on the face of the permit.
- (j) A Permittee or Operator commits an offense if the Permittee or Operator fails to continuously and prominently display a legible copy of the permit in a public area of the Automotive Related Business.
- (j) Automotive Related Business permits cannot be transferred. A person commits an offense if the person transfers a permit to another person or operates an Automotive Related Business under the authority of a permit at any place in the City of Grand Prairie other than the address designated on the permit. A transfer of a permit is deemed to have occurred if there is a transfer of more than fifty percent (50%) of the ownership or control of an Automotive Related Business, except by bequest or other operation of law upon the death of the person possessing the ownership or control.

- (k) To the extent it is not an offense under state law, it shall be an offense to counterfeit, forge, change, deface, or alter any permit issued under this Article.”

SECTION 5. Section 13-535 (i) is amended to read as follows:

- “(i) Any permit issued under this Article may be suspended for nonpayment of the annual inspection fee required in this Article. Notwithstanding any other provision, such permit will only be reinstated upon payment of said fees and, if over thirty (30) days late, an additional fee of fifty dollars (\$50.00). Section 13-537 shall apply to a suspension under this provision.”

SECTION 6. Section 13-536 is amended to read as follows:

“Section 13-536. Permit Issuance and Grounds For Denial, Suspension, and Revocation of Permit.

- (a) *Issuance and Grounds for Denial.* The Environmental Quality Manager shall approve the issuance of an Automotive Related Business permit to an applicant within forty-five (45) calendar days after receipt of a completed initial application and thirty (30) calendar days after receipt of a completed expanded use application, unless the Environmental Quality Manager finds one (1) or more of the following to be true:

1. The provided parking plan does not meet the requirements of the Unified Development Code or this Chapter.
2. The location of the Automotive Related Business is or would be in violation of the Unified Development Code of the City of Grand Prairie.
3. The applicant does not have a valid certificate of occupancy authorizing all proposed uses at the location shown in the application.
4. A valid Specific Use Permit which is required for the proposed use of the premises does not exist.
5. The conditions of a Specific Use Permit, which is required for the proposed use of the premises, have not been met.
6. The operation of the business, as proposed, at the location would violate state, federal, or local laws or regulations.
7. The applicant does not have all valid state licenses which are required to operate the business.
8. The applicant does not have all required environmental permits or licenses.
9. There is an environmental contamination on the premises which has not been remediated in accordance with applicable law.
10. The applicant gave false, fraudulent or untruthful information on the application.
11. The applicant’s application for an Automotive Related Business permit was denied within the last twelve (12) months due to the applicant providing false, fraudulent or untruthful information on the application.
12. The applicant’s Automotive Related Business permit was revoked within the last twelve (12) months.
13. The applicant is under eighteen (18) years of age.
14. An applicant or an applicant's spouse is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to an Automotive Related Business.
15. An applicant or an applicant's spouse has been convicted or placed on deferred adjudication, deferred disposition, probation, or community supervision for four (4) or more violations of this Article within the twelve (12) months immediately preceding the date the application is submitted to the City. The fact that a conviction or other disposition is being appealed shall have no effect. The offenses providing a basis for denial must have

different dates of offense. An offense is considered to be a violation of this Article if the offense is established under this Article or it is an offense established under another Chapter, Article, or Section which is referenced in this Article.

16. The permit fee required by this Article has not been paid.
 17. The applicant has not demonstrated that the owner of the Automotive Related Business owns or holds a lease for the property or the applicable portion thereof upon which the Automotive Related Business will be situated or has a legally enforceable right to acquire the same.
 18. An applicant or an applicant's spouse has been convicted or placed on deferred disposition, deferred adjudication, probation, or community supervision for a violation of state or federal law or regulation, including regulations of the United States Environmental Protection Agency and Texas Commission on Environmental Quality, related to the illegal dumping, discharge, or storage of pollutants, hazardous materials, or other substance into the environment, MS4, Publicly Owned Treatment Works, or waters of the State including, but not limited to, violations of Chapter 7 of the Texas Water Code for which
 - (a) Less than two (2) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - (b) Less than five (5) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
- (b) *Grounds for Suspension.* The Environmental Quality Manager shall suspend the Automotive Related Business permit for a period of time if it is discovered that one or more of the following have occurred:
1. Notice of an environmental contamination on the premises was given and said contamination was not remediated in accordance with applicable law within 10 days of the notice being issued.
 2. The Permittee is storing any item or material in the 100- year floodplain or floodway in violation of this Article or other federal, state, or local law.
- (c) *Length of Suspension.*
1. The term of suspension shall be:
 - (a) Five (5) days for the business' first violation within a twenty-four (24) month period;
 - (b) Ten (10) days for the business' second violation within a twenty-four (24) month period; or
 - (c) Grounds for revocation if the business has had three or more violations of subsection (b) of this section within a twelve (12) month period.
 - (d) In addition to the terms of suspension outlined above, the Permittee shall provide satisfactory proof of remediation prior to resuming operations.
 2. A Permittee may elect to pay an administrative penalty of \$500 in lieu of the five (5) day suspension for a first violation. Such election must be made within ten (10) days from the date the notice of suspension was mailed or, if an appeal was filed, within ten (10) days of the date the Designated Hearing Authority's order upholding the suspension was mailed. When applicable, the Environmental Quality Manager and Designated Hearing Authority shall notify the Permittee in the notice of decision of the Permittee's opportunity to pay a penalty fee in lieu of ceasing operation. Payment of this penalty shall be considered, for the purposes of this Subsection, the first suspension. However, this shall not be used as an admission of guilt in a criminal prosecution under this Article. If the Permittee does not provide satisfactory proof of remediation and pay the penalty before the expiration of the thirtieth calendar day after notification, the Permittee loses the opportunity to pay it and shall serve the five (5) day suspension.

- (d) *Grounds for Revocation.* The Environmental Quality Manager shall revoke the Automotive Related Business permit if it is discovered that one or more of the following have occurred:
1. A Permittee has been convicted or placed on deferred adjudication, deferred disposition, probation, or community supervision for four (4) or more violations of this Article within the twelve (12) months immediately preceding the Environmental Quality Manager's written notice of revocation. The fact that a conviction or other disposition is being appealed shall have no effect. The offenses providing a basis for revocation must have different dates of offense. An offense is considered to be a violation of this Article if the offense is established under this Article, or it is an offense established under another Chapter, Article, or Section which is referenced in this Article.
 2. A Permittee or Operator gave false or misleading information in the material submitted to the Environmental Quality Manager during the application process.
 3. A Permittee or Operator knowingly operated the Automotive Related Business during a period of time when the Permittee's permit was suspended.
 4. A Permittee is delinquent in payment to the City for ad valorem taxes or sales taxes related to the Automotive Related Business.
 5. A permit is transferred in violation of Section 13-534(i).
 6. The Certificate of Occupancy or a Specific Use Permit required to operate the business is revoked, surrendered, or otherwise ceases to be valid.
 7. If the Automotive Related Business Owner's lease, ownership, or other legal right to occupy the property or the applicable portion thereof upon which the Automotive Related Business is situated is terminated or ceases to exist.
- (e) *Term of Revocation.* When a permit is revoked, the Permittee is not eligible for an Automotive Related Business permit for a period of one year from the date the revocation takes effect.
- (f) *Date Calculation.* If any deadline provided in this Article falls on a weekend or City Holiday, the deadline shall be extended to the close of business on the next business day. Example: Deadline falling on Saturday will extend to close of business on Monday."

SECTION 7. Section 13-537 shall be amended to read as follows:

"Section 13-537. Revocation and Suspension Procedure

- (a) *Burden.* A denial, suspension, or revocation is an administrative procedure. In any hearing relating to such actions under this Section, the burden of proof shall be on the City (except for affirmative defenses), and shall be by a preponderance of the evidence.
- (b) *Notice.* If the Environmental Quality Manager is authorized to deny the issuance of a permit, or suspend or revoke a permit, the Environmental Quality Manager shall give written notice to the applicant or Permittee of his intent to deny, suspend, or revoke the permit or application.
1. The notice shall state the reason for such denial, suspension, or revocation.
 2. The notice shall provide that the denial of issuance, suspension or revocation shall take effect at the expiration of the tenth (10th) calendar day after the date notification was mailed, unless the Permittee provides a written request for hearing or penalty election notice under Section 13-536(c)(2) to the Environmental Quality Manager before the expiration of the tenth calendar day.
- (c) *Stay.* If a written request for hearing from the applicant or Permittee is received by the Environmental Quality Manager before the expiration of the tenth calendar day, the suspension, denial of issuance or revocation will be stayed pending a hearing and a decision by the Designated Hearing Authority. A Permittee may continue to operate under the existing Automotive Related Business permit during any stay of a suspension or revocation. If the denial is based upon an expanded use application, the Permittee may continue to operate as authorized under the current permit during any stay. Approval to

operate under this provision does not authorize operation in violation of federal, state, or local laws.

- (d) *Appeal.* The applicant or Permittee shall have ten (10) calendar days from the date notice is received, to request a hearing on the denial, suspension or revocation. The request shall be in writing and delivered to the Environmental Quality Manager. Upon receipt of the request for hearing, a hearing before the Designated Hearing Authority shall be scheduled to take place within thirty (30) calendar days unless both parties agree to a certain date beyond the thirty days. The Designated Hearing Authority shall consider only the testimony and evidence admitted for consideration at the hearing. The Designated Hearing Authority shall have ten (10) business days from the date of the hearing to notify the applicant or Permittee of the decision. In making a determination as to the denial, suspension, or revocation of a permit, the Designated Hearing Authority shall consider whether the City has established grounds exist under Section 13-536 of this Article. The Designated Hearing Authority's ruling shall include findings of fact.
- (e) *Appeal Hearing.* The hearing will be open to the public. The provisions of Texas Government Code, Sections 2001.081-.088 shall be used as procedural and evidentiary guidelines.
- (f) *Appeal Determination.* The decision by the Designated Hearing Authority is effective thirty (30) calendar days after the date the decision is mailed to the applicant or Permittee is notified of the decision, unless a reinstatement fee under Section 13-536 of this Article is paid (if available), or an appeal is made to District Court in accordance with the provisions of Article.
- (g) *District Court Appeal.* Upon receipt of written notice of the denial, suspension or revocation of a permit, the applicant whose application for a permit has been denied or whose permit has been suspended or revoked shall have the right to appeal by filing suit in the appropriate district court within thirty (30) calendar days after the receipt of notice of the decision of the Designated Hearing Authority. The applicant shall bear the burden of proof in court. The substantial evidence standard of review shall apply to such appeal. The filing of such suit shall have the effect of staying denial, suspension or revocation for the Automotive Related Business permitted under this Article pending a judicial determination of the appeal. The applicant or Permittee may operate the Automotive Related Business during the stay as provided by Section 13-357(c) above.
- (h) *Notices.* All notices and determinations issued by the City, Designated Hearing Authority or Director shall be sent certified mail, return receipt requested to the business contact person and address as it appears on the Automotive Related Business permit application or as updated by the applicant or Permittee. The validity of a notice mailed in accordance with this section shall not be affected if the notice is returned by the U.S. Postal Service."

SECTION 8. Section 13-538(a) is amended to read as follows:

- "(a) Automotive Related Business building and premise design, maintenance, use and operations shall comply with all applicable provisions of the Unified Development Code of the City of Grand Prairie (UDC) and the Grand Prairie Code of Ordinances. This includes, but is not limited to the following:
 - 1. UDC Article 10, Section 3; - Parking & Loading Standards, General Provisions;
 - 2. UDC Article 10, Section 4; - Parking & Loading Standards, Minimum Pavement Construction On or Within Non-residential Private Property;
 - 3. Code of Ordinances Chapter 13, Article XV - Vector Control;
 - 4. Code of Ordinances Chapter 13, Article IX - Liquid Waste; Generation, Transportation, and Disposal;
 - 5. Code of Ordinances Chapter 13, Article X - Cross-Connection Control and Prevention;
 - 6. Code of Ordinances Chapter 29 Code Compliance including, but not limited to, Article VII - Junked/Inoperable Vehicles and Sections 29-70 Littering, 29-89 Parking for Certain Purposes Prohibited, 29-89.1 Parking on sidewalks and rights-of-way; towing of vehicles in violation, 29-90 Fence Nuisance, and 29-114 Vegetation height and density restricted in particular.
 - 7. UDC Article 8, Section 9 – Screening"

SECTION 9. Section 13-539 is amended to read as follows:

- "Section 13-539. Change or Expanded Use Prohibited.
- (a) A certificate of occupancy is not transferable. Any transfer of ownership or control in a business voids the existing certificate of occupancy and requires a new certificate of occupancy prior to operation of

the business. A new certificate of occupancy or amendment to the existing certificate of occupancy is required prior to engaging in additional uses or expansion of the existing use.

- (b) Any business storing salvaged vehicles or parts of vehicles and/or salvaging the same shall be considered to be operating as a salvage yard.
- (c) Any business storing used parts which are not needed for the repair of a vehicle for which the business is currently contracted to repair is operating a salvage yard.
- (d) It is an offense to operate an Automotive Related Business without a valid Certificate of Occupancy issued to the current ownership of the business.
- (e) It is an offense for an Automotive Related Business to engage in a use not specifically authorized by both the Certificate of Occupancy and permit.
- (f) It is an offense to expand the existing use of an Automotive Related Business without first obtaining a new or amended Certificate of Occupancy and permit authorizing such expanded use.”

SECTION 10. Section 13-540 is amended to read as follows:

“Section 13-540. Documentation Requirements.

- (a) An original or copy of all disposal manifests related to the Automotive Related Business must be maintained on-site for a period of three (3) years from the date of disposal or the period of time required by other law, whichever is longer.
- (b) Any applicable specific use permit and the current approved site parking plan shall be maintained on the premises at all times.
- (c) Work orders and all documents related to catalytic converters shall be maintained for a period of two years from the date the vehicle repair was completed, two years from the date the catalytic converter was purchased, sold, or replaced, or the period of time required by other law, whichever is longer.
- (d) Failure to maintain any documentation required by this section is an offense.”

SECTION 11. Section 13-541(b) is amended to add subsection 9 which reads as follows:

- “9. Operate without having a current garbage removal contract with a company who is authorized by the City of Grand Prairie to remove and transport garbage within the City;”

SECTION 12. Section 13-543(b) is amended to reads as follows:

“(b)It shall be an offense for an Automotive Related Business to:

1. Store combustible materials not necessary or beneficial to the business on the premises of the Automotive Related Business;
2. Allow items to be kept or stored on the premises of an Automotive Related Business in a manner which creates a fire hazard;
3. Use the public right of way for the parking or storage of vehicles, or portions thereof, being repaired, stored, sold, transported or otherwise used by the Automotive Related Business;
4. Allow or cause materials to be stored in a drum or container which is not compatible with the material being stored or is otherwise allowing the stored material to leak from the container;
5. Fail to label a drum or container used to store waste or regulated waste with the name, address, phone number of the business, and other items required by local, state, or federal law or regulations;
6. Store waste materials in a manner which is not consistent or in compliance with applicable laws, regulations, permits, or established safety plans; or
7. Store batteries outside.”

SECTION 13. Section 13-547(k) shall be amended to read as follows:

- “(k) To revoke authorization granted under this section, the Environmental Quality Manager shall provide the permit holder written notice of the revocation and the grounds for the same. The permit holder has the right to appeal the revocation by submitting a written appeal to the Environmental Quality Manager within ten (10) calendar days of receipt of the notice. Unless prohibited by law, including state or federal flood or environmental regulations, the permit holder may continue bulk storage during the pendency of

the appeal once the condition specified in the notice is cured and any spill, if applicable, has been remediated. The appeal hearing shall be held as soon as practical and no later than fourteen (14) calendar days after the request is received. The appeal shall be heard by the Designated Hearing Authority. The Designated Hearing Authority shall issue a written ruling with findings of fact within five (5) business days of the hearing date. The decision of the Designated Hearing Authority shall be final.”

SECTION 14. The Code of Ordinances of the City of Grand Prairie, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

SECTION 15. The terms and provisions of this Ordinance are severable and are governed by Section 1-4 of the Code of Ordinances of the City of Grand Prairie, Texas.

SECTION 16. All ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance are hereby repealed. Provided that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this Ordinance.

SECTION 17. A violation of this Ordinance is a misdemeanor punishable in accordance with Section 1-8 of the Code of Ordinances of the City of Grand Prairie, Texas. The penalty provided herein shall be cumulative of other remedies provided by State law, and the power of injunction as provided in Texas Local Government Code Section 54.016, as amended, may be exercised in enforcing this ordinance whether or not there has been a complaint filed.

SECTION 18. This ordinance shall be in full force and effect from and after its passage, approval, and publication.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS,
ON THIS THE 21st DAY OF MARCH 2023.**

APPROVED:

A handwritten signature in dark ink, appearing to read 'Ron Jensen', written over a horizontal line.

Ron Jensen, Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney