



Dane County Planning & Development Department

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MEMORANDUM

TO: Members of the Dane County Personnel & Finance Committee (P&F)

FROM: Todd A. Violante, Director

DATE: August 10, 2023

RE: 2023 OA-009, Amending Chapter 10 of the Dane County Code of Ordinances Regarding "Salvage Operations"

CC: Chuck Hicklin, Controller
Meg Krohn, Assistant Controller
Roger Lane, Zoning Administrator
Dan Everson, Assistant Zoning Administrator
Hans Hilbert, Assistant Zoning Administrator

The purpose of this memo is to respond to questions regarding 2023 OA-009 raised at the July 17, 2023 meeting of the Personnel & Finance Committee. The Zoning and Land Regulation Committee (ZLR) recommended approval of Sub. 1 to OA-009 on a vote of 3 to 1 on June 27, 2023, for which staff continue to recommend approval. This memo is intended as a supplement to the full record of material in Legistar.

Supervisor Kiefer spoke to P&F in opposition to the OA on July 17, noting that salvage operations can be controversial land uses and wanting to maintain ZLR oversight of the operations by way of approving the annual licenses. The staff position on this point is that all eight (8) of the existing salvage operations in Dane County have an existing conditional use permit (CUP), and if at any time the operator is out of compliance with the terms of their CUP, or if staff are receiving complaints from neighbors or the town, the county has the ability to bring them before ZLR for possible revocation of their CUP. Currently, and under this OA, staff will be inspecting all eight operations annually, and staff will continue to respond immediately at any time to any complaints received, as we do now. If a site proves problematic, ZLR retains leverage and oversight of the site by way of the CUP and the threat of possible revocation.

Supervisor Kiefer also posed the following two questions to staff via email in the days preceding the July 17 P&F meeting. The staff response follows each respective question.

1. The ordinance will add an annual inspection requirement to conditional use permits for salvage operations. Will the conditional use permits for the 8 existing salvage operations be amended to add the annual inspection requirement, or will this only apply to newly issued conditional use permits?

Staff Response: The existing CUPs will not be amended due to the change in the ordinance, but the permits will become legal non-conforming, and the inspection standard could be added in the future as an explicit condition of the CUP if they wished to change any aspects of their permit. That said, the ordinance still allows inspections of complaints and violations regardless if a license or a CUP specifies it, and Section 10.103(17)(c), *Inspection*, of the OA requires “All salvage operations shall be subject to an annual inspection by the Zoning Administrator to confirm compliance with this ordinance.”

2. What are the street addresses for the 8 existing salvage operations, and in which towns are they located?

Staff Response: The eight (8) existing salvage operations are listed in the following table, and their geographic distribution is shown in the attached map. Note that there was also a site in the town of Rutland, but it is no longer active due to the prior operator now being deceased. The site has been cleaned up and is no longer a salvage yard.

No.	Operator Name	Address	Town
1	John Mullarkey	936 Glenway Road	Oregon
2	John Rowley	East of 1725 Spring Rose Road	Verona
3	Michael Cutrano*	300 U.S. Highway 12 & 18	Christiana
4	Richard Diehl	5466 Norway Grove School Road	Vienna
5	Brian Outhouse	665 Dead End Road	Perry
6	Thayer Every	298 STH 138	Dunkirk
7	Zachary Brumm**	4301 Acker Road	Burke
8	Lindus Properties**	4281 Acker Road	Burke

* This site and operator will not be renewing their license.

** This is a new site.

The following questions were additionally raised by P&F members on July 17 (paraphrased).

1. What leverage or “teeth” are we giving up by eliminating the licensing requirement? How does the CUP differ from the annual license?

Staff Response: While not exactly the same, the current salvage yard licensing could be viewed similar to obtaining a state vehicle registration sticker. If you have a salvage

yard in Dane County, you must obtain an annual license. The ordinance is absent of requirements. Basically, we are removing an antiquated license requirement that has no meaning other than identifying a specific area for salvage operations. Administrative staff responsible for enforcement feel that we are not losing any leverage by eliminating the requirement. This is part of the reason why the licensing requirement, especially in the context of there also being a CUP required, is relatively obsolete and “toothless.”

Staff have described the licensing provision as a “tool that is no longer needed in the zoning toolbox.” In hindsight, the licensing provision, established in 1934, should have been eliminated many years ago at the time salvage yards became a conditional use necessitating a CUP. As the zoning ordinance evolved, and we’ve progressed from dumps to junkyards, to salvage yards, and all the way to sophisticated salvage and recycling operations, we have incorporated these as land uses more explicitly into the ordinance and shifted away from a license-based regulation to a more district-based format requiring a CUP and proper zoning. In addition, Wisconsin DNR and DOT also play roles in the regulation of salvage operations, which reduces the burden on the County to have to enforce them singlehandedly. As we continue to streamline our internal workflows, it’s also important for the Zoning Administrator to remove redundant, outdated, or otherwise unnecessary requirements as a means of providing more efficient and higher quality service to the community.

2. What is the specific nature of the annual licensing that would not also be covered by the CUP? What is included in a licensing application, and what are the terms and conditions of issuing the license for which they must comply?

Staff Response: The annual license has no substantive requirements or terms. The following is an excerpt from the zoning ordinance, s. 10.103(17)(c), *License*, which outlines what is required for the license application:

“(c) *License*. 1. Before any premises may be used as a privately operated salvage yard or junkyard, it shall be licensed. Application for such license shall be made to the zoning administrator, setting forth the description of the premises, the nature of the business and the materials to be handled, the type of construction of any building to be used in connection with the business, the applicant's name or names, officers, if any, and address of each.”

The main focus of our staff review is that the operator has an approved CUP, the salvage material is within the zoning area/CUP boundary, and they are otherwise in compliance with the terms of their approved CUP. There is nothing in the license application that is not also part of the CUP, and the CUP encompasses more than the license. The zoning ordinance does not list any criteria for review other than requiring that the operation is “being conducted in accordance with the provisions of this ordinance,” which is part of why staff feels the licensing provision is unnecessary.

The opinion of staff is that we are not losing leverage or weakening the county's ability to regulate salvage operations by way of this OA. We will still inspect sites annually, we will still respond to complaints by neighbors or town officials, and we can still bring CUP holders before ZLR for possible revocation if a particular operator is not complying with the terms of their CUP or any other applicable requirements of the ordinance. The types of things staff review for compliance with their CUP may include, for example, the following: whether there is a landscape screening requirement; a specific number of allowable driveways; hours of operation; storage of equipment; and limitations on the types of materials that can be within the salvage operation, such as only 2- and 4-cycle vehicles. These types of considerations are normal for CUP conditions, but not in the context of the license. As such, our enforcement is tied to the CUP conditions and other aspects of the zoning ordinance, and not the annual license.

3. What state agencies also license salvage operations, for what reason or purpose?

Staff Response: Wisconsin DNR regulates salvage yards for hazardous materials, recycling, and storm water runoff. Wisconsin DOT regulates the tracking and disposal of vehicles. Note that the proposed OA aligns county ordinance with DOT requirements and terminology.

In conclusion, I hope this memo addresses the questions of the committee from their July 17 meeting and allays any concerns the supervisors may have, but please don't hesitate to reach out if you have any remaining questions: violante@countyofdane.com, or 608.266.4021. Staff still very much support the OA and recommend approval of Sub. 1 to 2023 OA-009 regarding salvage operations.

SALVAGE YARDS - DANE COUNTY

1. John Mullarkey
936 Glenway Rd.
Town of Oregon
2. John Rowley
East of 1725 Spring Rose Rd.
Town of Verona
3. Michael Cutrano
300 US Hwy 12 & 18
Town of Christiana
4. Richard Diehl
5466 Norway Grove School Rd.
Town of Vienna
5. Brian Outhouse
665 Dead End Rd.
Town of Perry
6. Thayer Every
298 STH 138
Town of Dunkirk
7. Zachary Brumm
4301 Acker Rd.
Town of Burke
8. Lindus Properties
4281 Acker Rd.
Town of Burke

