

**Los Angeles City Planning Department
RECOMMENDATION REPORT**

CITY PLANNING COMMISSION	CASE NO: CPC-2003-5266 CA
	CEQA: ENV-2003-5267 CE
DATE: September 11, 2003	LOCATION: Citywide
TIME: after 9:30 a.m.	COUNCIL DISTRICTS: All
PLACE: Room 1010, City Hall	PLAN AREAS: All
200 North Spring Street	RELATED FILE: CF 01- 2324; 02-1560
Los Angeles, CA 90012	CPC 2003-4015 CA

PUBLIC HEARING REQUIRED

REQUEST: Amendments to Section 12.26 I of the Los Angeles Municipal Code.

SUMMARY: A proposed ordinance (Appendix A) amending the Los Angeles Municipal Code to add a definition for Used Vehicle or Trailer Sales Areas, establishing an annual inspection fee and basic standards for the operations of used vehicle or trailer sales areas, under the authority of the Department of Building and Safety. The proposed ordinance also includes clarifying and technical language changes relating to the operation of automotive repair uses.

RECOMMENDATION:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the attached findings.
3. **Approve** the proposed ordinance (Appendix A) and recommend its adoption by the City Council.

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ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to this programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than 3 working days (72 hrs.) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

SUMMARY

The proposed ordinance (Appendix A) amends Section 12.26 I of the Los Angeles Municipal Code (LAMC) by adding a definition for Used Vehicles or Trailer Sales Areas, establishing an annual inspection fee and basic standards for the operation of used vehicle or trailer sales area under the authority of the Department of Building and Safety. The proposed ordinance also includes clarifying language and technical changes relating to the operation of automotive repair uses.

FINDINGS

The City Planning Department recommends that the City Planning Commission, in accordance with Charter Section 558, find:

1. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan in that it will contribute to “the revitalization of depressed areas,” Goal 3A of the Citywide General Plan Framework and will provide assurance of a “healthful living environment” for residents in proximity to these uses; and
2. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will have no adverse effect upon the General Plan, specific plans, or any other plans being created by the Department of City Planning because the proposed ordinance is consistent with the General Plan and carries out the General Plan goals, policies and objectives discussed above. There will be no substantive changes made to the existing Los Angeles Municipal Code; therefore there will be no effects on any above-referenced plans; and
3. In accordance with Charter Section 558 (b)(2), the proposed ordinance (Appendix A) will be in conformity with the public necessity, convenience, general welfare and good zoning practice in that improved regulations for the location, size, operation, and maintenance of used vehicle sales lots, as well as stricter enforcement of the regulations, will decrease the potential for these facilities to become a public nuisance and negatively impact the surrounding properties and the community; and

4. The proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) and City guidelines for the implementation thereof pursuant to Article II, Section 2, Subsection (m) of the Los Angeles City's Guidelines, as it will not have a negative impact on the environment.

CON HOWE
Director of Planning

REVIEWED BY:

APPROVED BY:

CORA SMITH
City Planner

ROBERT JANOVICI
Chief Zoning Administrator

PREPARED BY:

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Project Manager

STAFF REPORT

Request

On February 19, 2002, in response to a motion by (Perry-Reyes), the Public Safety Committee instructed “the Chief Legislative Analyst to convene a Task Force consisting of representatives of the Planning Department, City Clerk, Office of Finance, Public Works, Police Department, Fire Department, Community Redevelopment Department, Community Development Department, and Building and Safety ...that will authorize annual inspections of recycling centers and used car lots” to address blight and negative impacts on surrounding properties and neighborhood.

On July 19, 2002, a second motion was introduced (Perry-Reyes) instructing the City Attorney to prepare an ordinance to include recycling centers and used auto lots under an annual Building and Safety inspection program. The proposed ordinance (Appendix A) was drafted with the assistance of the Los Angeles Department of Building and Safety.

Discussion

The City Recycling Center Task Force met over several months to determine what methods, that would assure greater compliance with the code and also to develop better regulatory and enforcement mechanisms to address problems associated with recycling center and used car lots. This report is one of the recommendations of the City Recycling Center Task Force. The Los Angeles Department of Building and Safety (LADBS) indicated at the February 4, 2002, Public Safety Committee meeting that the department currently operates the Vehicle Establishment Inspection Program (VEIP) which is an annual inspection program of automobile repair garages, automobile dismantling facilities and storage yards. The department indicated its willingness to be a part of the task force and would look at possible amendments to the current ordinance to include recycling centers and used car lots as part of the inspection program. A code amendment to include recycling centers in an annual inspection program are being dealt with in a companion report, CPC 2003-4015.

The proposed ordinance (Appendix A) adds a definition for Used Vehicle or Trailer Sales Areas, establish an annual inspection fee and basic standards for the operation of used vehicle or trailer sales area under the authority of the Los Angeles Department of Building contained in Section 12.26 I of the Los Angeles Municipal Code. The proposed ordinance (Appendix A) establishes standards for the operation of Used Vehicle or Trailer Sales Areas, such as requirements for customer parking, specific hours for any repair work, current business records, fine schedule, and appeal procedures. The Los Angeles Department of Building and Safety has also suggested technical and clarifying language changes to Section 12.26 I, relating to Automotive Repair uses.

Most importantly, the proposed ordinance (Appendix A) adds “Used Vehicle or Trailer Sales Areas” to the Los Angeles Department of Building and Safety’s (LADBS) annual inspection program. LADBS has interpreted used vehicle or trailer sales areas in the broadest sense, pursuant to California State Vehicle Code Section 100-680. It is modeled on the LADBS’s successful Vehicle Establishment Inspection Program (VEIP), which began in 1985 and initially focused on junkyards. In 1990, in response to concerns about noise and cleanliness, automotive repair facilities were added to the program. LADBS has determined that, based on current information there are approximately 1550 used car sales lots in the City.

Based on the LADBS experiences, the proposed ordinance (Appendix A) strengthens and the existing VEIP program’s enforcement mechanisms. Further, LADBS has used this opportunity to enhance protections regarding the operations of automotive repair uses by adding clarifying language; e.g. that all auto spray painting must now be done in a building or room approved for such a use, including any M3 zone which is located less than 500 feet away from a more restrictive zone.

Initially, LADBS will do a complete survey of the entire City to identify all approved and unapproved Used Vehicles or Trailer Sales Areas and Recycling Centers. Inspections will be made to verify that all sites comply will all code requirements. LADBS will issue orders to correct all violations, “Order to Comply.” If necessary, referrals will be made other city departments or outside agencies. In the instance of an unapproved facility, LADBS staff will inform the owner and/or operator of all required permits and approvals.

Failure to correct the violations by the due date will be addressed by a range of increasingly serious enforcement measures. These measures include increased fines, the issuance of additional citations or Citation to Appear, and possible arrest. The proposed ordinance (Appendix A) also requires that if a non-compliant site lacks a valid Certificate of Occupancy, any and all rights regarding non-conforming uses can be revoked. The ultimate consequence for failure to comply is a possible revocation. This program is fully funded by the \$300 - \$325 annual inspection fee paid by the each operator; and is revenue neutral to the City. All used vehicles and trailer sales businesses will receive annual inspections to assure all zoning and building code requirements are being met. Records will be maintained for each site and updated to indicate any changes in the character, ownership, or operation of the site.

Once the enabling legislation is enacted, the time involved for the Department of Building and Safety to implement a program for the enforcement and tracking aspects of this program (VEIP) would depend on how quickly staffing and equipment could be provided. The Los Angeles Department of Building and Safety would utilize existing VEIP staff and tracking system to provide the basic structure for the new program.

Conclusion

The City is deeply committed to protecting the health, safety, welfare, and living environment of its residents. Some improperly operated used vehicle or trailer sales areas have been venues for noise, criminal activity, pollution and unbearable blight. The adoption of the proposed ordinance (Appendix A) will expand the annual inspection program of the Los Angeles Department of Building and Safety to include used vehicle or trailer sales areas and thus provide adequate resources to protect the neighborhoods in which used vehicle or trailer sales areas are located and also strengthen the current inspection program for automotive repair uses.

Environmental Impact

The attached proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) and the City guidelines for the implementation thereof pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines, as it will not have a negative impact on the environment.

APPENDIX A

PROPOSED ORDINANCE FOR DISCUSSION

An ordinance amending Section 12.26 I of the Los Angeles Municipal Code by adding a definition for used vehicles or trailer sales areas, establishing an annual inspection fee and basic standards for the operation of used vehicles or trailer sales areas under the authority of the Department of Building and Safety, including clarifying and technical changes to the operation of automotive repair uses.

THE PEOPLE OF THE CITY OF LOS ANGELES

DO ORDAIN AS FOLLOWS:

Section 1. Subsection I of Section 12.26 of the Los Angeles Municipal Code is amended to read:

I. Automotive Repair and Used Vehicle or Trailer Sales Areas.

1. Definitions. As used in this subsection, the following terms have the definitions specified herein.

The term "Department" means the Department of Building and Safety.

The term "Board" means the Board of Building and Safety Commissioners.

The term Used Vehicle or Trailer Sales Area means an area or lot where any

type of used motor vehicle or trailer is displayed for sale.

2. Applicability. The provisions of this subsection shall apply to every automotive repair use in the City of Los Angeles, including those in existence prior to May 27, 1990, the effective date of Ordinance No. 165,798.

The provisions of this section shall also apply to every used vehicle or trailer sales area in the City of Los Angeles, including those in existence prior to (a date specific, to be inserted by the City Attorney).

3. Minimum Standards.

(a) All automotive repair uses shall comply with the following minimum standards:

(1) All body and fender repairing when conducted within 300 feet of an A or R Zone shall be done within a completely enclosed building or room. The doors of such building or room may be open during the following hours:

(i) From 7 a.m. until 8 p.m. on Mondays through Fridays;

(ii) From 9 a.m. until 8 p.m. on Saturdays; and

(iii) From 11 a.m. until 8 p.m. on Sundays.

At all other times, the doors of such building or room shall be closed, except at intervals necessary for ingress and egress.

(2) All body and fender repairing when conducted within 150 feet of an A or R Zone shall be done within a completely enclosed building or room with stationary windows. The doors of such building or room may be opened only at intervals necessary for ingress and egress, except that garage bay doors may be open during

the hours of operation set forth in Paragraph (a) of this subdivision, provided:

(i) A minimum 10-foot-high solid masonry fence or a minimum 10-foot-high intervening commercial or industrial building enclosed on at least three sides is maintained at the property line adjacent to the A or R Zone, or

(ii) Doors facing a public street shall be closer to the property line adjacent to the public street than the required yard setback of any adjacent A or R Zone.

(3) All automotive spray painting shall be done in full compliance with the provisions of Article 7 of Chapter 5 of the Los Angeles Municipal Code regulating such installations; provided further, that no spray painting may be done except in a building or room approved for such use, including all spray painting done in any M 3 zone which is located less than 500 feet away from a more restrictive zone.

(4) Except for allowable outside uses when conducted in the M2 or M3 zones, all other operations shall be conducted within a building enclosed on at least three sides, except for the following, which may be conducted within the first 18 feet in depth measured perpendicular to the entire length of the building wall containing a garage bay door; said area shall not displace any required parking:

(i) electrical diagnostics;

(ii) battery charging and changing;

(iii) tire removal and replacement, provided the vehicle is not elevated more than 12-inches off the ground measured to the bottom of the tire. A portable hoist only, may be used for this purpose.

(5) If the building is located within 50 feet of a lot in an A or R Zone with no intervening street, the wall of the building nearest such zone shall have no openings other than doors or stationary windows. Such doors shall be permitted only if the building is adjacent to an alley and may be opened only at intervals necessary for ingress or egress.

(6) Automotive hoists, of any type or size, except as provided in Paragraph (i) (4) above or allowed and operated in an M2 or M3 zone, shall be located or operated only inside a building.

(7) Nothing in this section shall relieve any person from complying with any applicable requirements contained in Los Angeles Municipal Code Section 12.14, 80.73.1, 80.73.2 or any other provision of the Los Angeles Municipal Code.

(b) All Used Vehicle or Trailer Sales Areas shall comply with the following:

(1) All used vehicle or trailer sales areas established after (date to be inserted by City Attorney) shall provide supplemental customer parking, on site, of at least one space for every 2000 square feet of vehicle or trailer sales area. This parking shall be addition to all other parking required for the use and shall be conspicuously posted and for customer parking only. There shall be a minimum of two customer parking spaces provided for any used vehicle or trailer sales area;

(2) All repair work done on site must comply with the Automotive Repair subsection of this section whether or not the repairs are done on customer or dealer owned vehicles;

(3) All other provisions of the Los Angeles Municipal Code which apply to used vehicle or trailer sales areas must be complied with at all times;

(4) Exception: Display of not more than three vehicles, at any one time, which is accessory to an approved use on the same lot and not occupying any required parking spaces, does not require a separate Certificate of Occupancy, additional parking, or annual inspection.

4. Parking of Cars in Custody of Garage Automotive Repair Site or Used Vehicle or Trailer Sales Area.

No vehicle left in the custody or possession, for any reason, of an automotive repair garage or used vehicle or trailer sales area shall be parked, left standing, or stored outside the lot on which the repair garage or used vehicle or trailer sales area is located, except that such vehicles may be stored within an approved storage yard. A responsible person shall be on the premises of each repair garage or used vehicle or trailer sales lot during the hours in which the garage or lot is in operation. ~~At the Department's request,~~ Such person shall maintain current records, in a manner that can be immediately supplied to any enforcement agency upon request, stating the license plate number, vehicle identification number and registered owner of each vehicle currently in the custody or possession of the garage or used vehicle or trailer sales lot for purposes of repair, sales, trade, shipment or other disposition. This subdivision shall not apply to employees' vehicles used daily for commuting.

5. Annual Inspections.

The department shall inspect the physical facilities of each repair garage and used vehicle or trailer sales area at least once a year. An annual inspection fee as specified in Section 98.0402 (e) of the Los Angeles Municipal Code shall be collected by the department. Failure to pay this fee is sufficient cause to institute a Certificate of Occupancy Revocation hearing. An inspection may also be made whenever a complaint or referral is received by the department concerning a violation of ~~this~~ the Los Angeles Municipal Code by a repair garage or used vehicle or trailer sales area or as necessary to verify continued compliance with all applicable Municipal Code requirements.

~~6. "Certificate of Inspection.~~

~~If the facilities and operation of a repair garage so inspected are found to be in compliance with the provisions of the Los Angeles Municipal Code, the department shall issue to the operator of the repair garage a Certificate of Inspection.~~

6. Order to Comply.

If the physical facilities of a repair garage or used vehicle or trailer sales area are found by the Department to be in violation of Subdivision 3 or 4 of this subsection or of any other provision of this article, the Department shall send an Order to Comply to the owner of the property and the operator of the repair garage or used vehicle or trailer sales area. The Order to Comply shall clearly state the following:

(a) The nature of the violation and the code section violated.

(b) That the violation must be corrected by a compliance date specified in the order or any extension thereof authorized pursuant to Subdivision 8 of the

subsection.

(c) That failure to correct the violation on or before the compliance date or any authorized extension thereof may result in commencement of proceedings to revoke the Certificate of Occupancy. Such proceedings may involve a Revocation Hearing. A personal appearance at the hearing may only be avoided if the violation is corrected and a fine paid according to the fine schedule in Subdivision 16 of this subsection.

(d) That an appeal may be filed from the Order in the manner provided by Subdivision 15 of this subsection.

7. Time Limits for Compliance with Order to Comply.

(a) The repair garage or used vehicle or trailer sales area shall comply with the Order to Comply described in Subdivision 7 of this subsection on or before the compliance date specified in such order, or any authorized extension thereof. The compliance date shall be not more than 30 days from the date of the order.

(b) The department may grant an extension of the compliance date specified in the order for an additional period not to exceed 45 days if the owner or operator of the repair garage or used vehicle or trailer sales area presents satisfactory evidence to the Department that unusual difficulties would prevent substantial compliance without such extension.

(c) Upon an appeal, the Board may grant an extension of the compliance date for an additional period not to exceed 180 days if it finds that the correction of

major code violations requiring extensive building alterations would create a hardship without such extension.

8. Reinspection.

The Department shall reinspect a repair garage or used vehicle or trailer sales area for which an Order to Comply was issued pursuant to this subsection subsequent to the compliance date or any authorized extension thereof. ~~If the repair garage is then found to be in compliance, the department shall issue to the operator of the repair garage a Certificate of Inspection.”)~~

9. Citation authority prior to Revocation Notice

An arrest may be made or citation issued as per Sec. 98.0408 if the violations noted in a notice to comply are not corrected on or before the due date noted upon such notice. This action does not preclude the commencement of Revocation of Certificate of Occupancy proceedings.

10. Failure to Correct Violations; Revocation Proceedings.

If any violation specified in the Order to Comply is not corrected prior to the compliance date or any extensions thereof, or if the annual inspection fee has not been paid within 60 days of assessment, then the department shall commence Certificate of Occupancy Revocation proceedings by issuance of a Notice of Intent to Revoke. This notice shall be sent to the owner of the property and the operator of the repair garage or used vehicle or trailer sales area.

The Notice of Intent to Revoke shall state the following:

(a) The date and place of the Revocation Hearing, which shall be scheduled at least 15 days and not more than 90 days from the date of issuance of the Notice of Intent to Revoke.

(b) A list of all violations uncorrected as of the compliance date.

(c) That copies of all inspection reports related to such violations are available for inspection by the owner or operator.

(d) That termination of revocation proceedings may be obtained if the violations noted in the Notice of Intent to Revoke are corrected before the date of the Revocation Hearing and only if a specified fine is paid. This fine shall be fixed in accordance with the fine schedule in Subdivision 16 of this subsection.

(e) That the owner and operator are entitled to be represented by legal counsel at any Revocation Hearing.

(f) That the proceedings may result in the revocation of the Certificate of Occupancy.

(g) That each violation of this Code and each day of operation without a Certificate of Occupancy is a misdemeanor.

11. Revocation Hearing.

On the date specified in the Notice of Intent to Revoke, a hearing shall be held. The Board may appoint a Hearing Examiner to conduct such hearing. The Examiner shall not be any individual who participated in the issuance of any of the Notices or Orders required by this Subsection. Subpoenas may be issued pursuant to Section

98.0307 of the Los Angeles Municipal Code. The hearing shall be conducted pursuant to the provisions of Section 98.0308 and 98.0309 of the Los Angeles Municipal Code.

12. Hearing Examiner's Report.

Within 30 days of the last day of the hearing, the Hearing Examiner shall report his the findings and recommendations in writing to the Board.

13. Board Determination.

Within 15 days of receipt of the Hearing Examiner's report, the Board shall determine whether the Certificate of Occupancy shall be revoked.

(a) Revocation shall be ordered by the Board if it finds that;

(i) any of the violations specified in the Order to Comply were not corrected on or before the hearing date, or that the fines specified in Subdivision 16 of this subsection have not been paid; and

(ii) that the repair garage or used vehicle or trailer sales area adversely the health, peace, or safety of persons residing working in the surrounding area; and

(iii) the owner or operator of the repair garage or used vehicle or trailer sales area has failed to demonstrate to the satisfaction of the Board the ability or willingness to eliminate problems associated with the repair garage or used vehicle or trailer sales area operation.

(b) The Board may also determine that a Certificate of Occupancy should not be revoked if it makes the following findings:

(i) The violations specified in the Order to Comply were corrected

on or before the hearing date; and

(ii) The owner or operator of the repair garage or used vehicle or trailer sales area has paid the fine specified in Subdivision 16 of this subsection ~~with respect to~~ for each ~~such~~ violation.

In making its determination, the Board may hear from the owner, operator, or other interested party. The determination by the Board is final.

14. Loss of Non-Conforming Rights.

Notwithstanding any provision of this Code to the contrary, if a Certificate of Occupancy is revoked pursuant to this subsection, then a new Certificate of Occupancy for the property may only be issued if all requirements of the Code in effect at the time of application for such new Certificate are satisfied.

15. Appeals.

Except for extensions of time granted by the Department as authorized in Subdivision 8 of this subsection and notwithstanding any provisions of this Code to the contrary, there shall be no appeal to the Board of Building and Safety Commissioners from any notice issued or determination made by the Department pursuant to this Subsection. Appeals may be made from Department determinations of violations of Subdivisions 3 and 4 of this subsection pursuant to Section 12.26 K.

16. Fine Schedule. The fine specified in the Notice of Revocation shall be fixed according to the following schedule:

(a) A fine as specified in Section 98.0402, (f) 2 B of the Los Angeles Municipal Code shall be levied for each of the following

violations:

(1) Failure to provide and maintain required walls as required by Paragraph (a) of Subdivision 3 of this subsection.

(2) Failure to provide and maintain a fully enclosed building for body and fender repair as required by Paragraph (b) of Subdivision 3 of this subsection.

(3) Failure to provide and maintain an approved spray booth within an enclosed building when spray painting is performed as required by Paragraph (c) of Subdivision 3 of this subsection.

(4) Failure to provide and maintain a building enclosed on three sides for repair other than body and fender work as required by Paragraph (d) of Subdivision 3 of this subsection.

(5) Failure to provide and maintain a building for any vehicle hoists as required by Paragraph (f) of Subdivision 3 of this subsection.

(6) Failure to maintain open and accessible customer parking.

(7) Failure to pay annual inspection fee within 60 days of assessment.

(8) Failure to provide vehicle record when requested.

(b) A fine as specified in Section 98.0402, (f) 2 B of the Los Angeles Municipal Code shall apply to all other violations specified in the Notice of Revocation.

17. Repeat Violations.

Notwithstanding any provisions of this subsection to the contrary, if an Order to Comply is issued pursuant to this subsection and after compliance with it a subsequent

Order to Comply is issued for a violation of the same provisions occurring within one year of the date of the initial order:

(a) The repair garage or used vehicle or trailer sales area operator shall pay a fine as specified in Section 98.0402 (f) 1 of the Los Angeles Municipal Code for each violation of the same provision occurring within one year of the date of the initial Order to Comply. This fact shall be stated in the subsequent Order to Comply.

(b) The Compliance Date for any such Order to Comply shall be no more than ten days from the date of mailing of such notice.

(c) No extensions of the Compliance Date may be granted.

(d) The amounts set forth in the fine schedule in Subdivision 16 of this subsection shall be doubled if a Notice of Revocation is issued pursuant to the subsequent Order to Comply.

18. Fines Distinct from Other Penalties and Fees.

The above fines are separate and distinct from both the general misdemeanor penalties provided in this Code and the noncompliance fees authorized in Section 98.0411 of this Code.