

SECTION 1201 AUTHORITY, PURPOSE, TITLE, EFFECTIVE DATE

Section 1201.1 General Authority

By authority of the Code of West Virginia, Chapter 17, article 23, Section 4, the Hampshire County Planning Commission is empowered to adopt, administer and enforce reasonable rules and regulations for the establishment, operation or maintenance of a salvage yard.

Section 1201.2 Purpose

The purpose of this ordinance is to establish a permit procedure and set for the reasonable rules and regulations for the establishment, operation and maintenance of a salvage yard. More specifically, this ordinance is adopted for the following purposes:

- a. To protect and provide for the public health, safety and general welfare of the County.
- b. To promote the harmonious development of the County to secure safety from fire, flood, and other dangers.
- c. To promote safe and efficient access to the existing transportation network and particularly the highway system.
- d. To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- e. To prevent the pollution of air, streams, and other water bodies; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of the natural and visual resources throughout the County in order to preserve the integrity, stability and natural beauty of the community.
- f. To guide future growth and development in accordance with the comprehensive plan.

Section 1201.3 Title

This Ordinance shall be known, cited and referred to as the Hampshire County Salvage Yard Ordinance.

Section 1201.4 Permit Required

A salvage yard permit shall be required prior to the establishment of any salvage yard. Any salvage yard which is not licensed in accordance with Article 23, Chapter 17, Section 3 of the Code of West Virginia at the time of adoption of this Ordinance shall require a permit under this Ordinance. In addition, a permit shall be required for the expansion of a salvage yard issued a permit under this Ordinance. No permit shall be issued until it conforms with all other County Land Development laws and the laws of the State of West Virginia.

Section 1201.5 Exempt Activities

The following activities are expressly exempt from the provisions of this Ordinance:

- a. Any new or used motor vehicle dealer licensed by the State of West Virginia or any commercially established motor vehicle repair shop provided that any junked motor vehicle on site is serving a reasonable functional use in the operation of the business and would not otherwise constitute a salvage yard. A commercially established repair shop shall not include part-time or "hobby" repair shops or other establishments which are not the principal occupation of the proprietor.
- b. Publicly owned and operated solid waste disposal facilities approved by the West Virginia Department of Natural Resources under Chapter 20, Article 5F and the Legislative Regulations for Solid Waste Management, as amended.
- c. Bonafide Agriculture Operations

Section 1201.6 Effective Dates

This Ordinance, established by action of the Hampshire County Commission on March 22, 1988 shall take effect on March 22, 1988 and shall apply to all salvage yards within the unincorporated territory of Hampshire County.

SECTION 1202 INTERPRETATIONS AND DEFINITIONS

Section 1202.1 Interpretation

For the purpose of this Ordinance, the following interpretations shall apply:

- a. Words used in the present tense include the future tense.
- b. The singular includes the plural.
- c. The plural includes the singular.
- d. The word "person" includes a corporation, unincorporated association or partnership as well as an individual.
- e. The term "shall" or "will" is always mandatory.
- f. The word "building" or "structure" shall be construed as if followed by the phase "or part thereof".
- g. The word "County" shall refer to Hampshire County.
- h. The word "Ordinance" shall refer to the Hampshire County Salvage yard Ordinance.

Section 1202.2 Definitions

For the purpose of this Ordinance, the following definitions shall apply:

Agriculture

The cultivation of plant crops or the raising of livestock. Agriculture is the organized use of land for the production of plant or animal food, fiber or landscape products. Beef and dairy farms, grain farms, orchards, plant nurseries, and tree farms are forms of agriculture.

Building

Any structure which is permanently affixed to the land and has one or more floors and a roof.

Community Impact Statement (CIS)

A report prepared by an applicant describing the scope and feasibility of his proposed salvage yard. The CIS also describes the physical, social and economic impacts a proposal may bring to the County and to the immediate area.

Construction Bond

A written instrument with a clause binding an applicant to pay a certain penalty (or a portion thereof) to the County Commission; conditioned, however, with a statement that the payment of the penalty or a portion thereof) may be avoided upon satisfactory construction and completion of improvements required by the Planning Commission. A Construction bond is secured by a surety, by cash in escrow, or by other means satisfactory to the Hampshire County Commission and the Hampshire County Planning Commission.

County Commission

The Hampshire County Commission, three commissioners elected at-large by magisterial district.

County Engineer

A member of the Planning Commission Staff (or a consultant) who is registered (or able to be registered) as a West Virginia Professional Engineer.

County Land Development Laws

The Ordinances adopted by the Hampshire County Commission for the purposes of monitoring and regulating the development of land. This shall include the Subdivision Ordinance, the Improvement Location Permit Ordinance and any other similar Ordinance officially adopted by the County Commission.

Fencing

An enclosure, barrier or screen constructed of materials, or consisting of plantings, natural objects or other appropriate materials located and maintained so as to screen effectively from the public view.

Land Development Coordinator

A designated employee of the Planning Commission charged with the administration and enforcement of this Ordinance and other land development laws in Hampshire County. Unless otherwise designated this shall mean the Hampshire County Planning Director.

Motor Vehicle

Any device in which persons or property may be transported and is, or was, self-propelled.

Motor Vehicle, junked

Any motor vehicle which is unlicensed, unregistered, discarded, wrecked, ruined, scrapped, or dismantled; cannot pass the State motor vehicle inspection; and, is not serving a reasonable functional use or purpose or is not in an enclosed building.

Motor Vehicle Repair Shop

Any commercially established building or land used for the servicing, repairing, or equipping of motor vehicles. A motor vehicle repair shop shall include commercial garages and body shops.

Planning Commission

The Hampshire County Planning Commission. A fifteen-member Commission appointed by the Hampshire County Commission to promote the orderly development of the County.

Salvage

Old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash, waste, dismantled or wrecked machinery, machine or motor vehicles or any parts of junked, dismantled or wrecked machinery, machines or motor vehicles, iron, steel, and other old or scrap ferrous or nonferrous materials.

Salvage Yard

Any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary landfills. Any collection of three or more junked vehicles, or combination of ferrous or nonferrous materials together with one or more junked motor vehicles, or a collection of any salvage, shall be considered a salvage yard.

Solid Waste Disposal Facility

Any facility established modified, or operated for the purpose of the disposal of solid waste as defined by West Virginia Department of Natural Resources, Legislative Regulations for Solid Waste Management, as amended.

Sketch Plan

An informal drawing of a salvage yard proposal design and. layout which is prepared according to the provisions of this Ordinance and which assists the Planning Commission and the applicant in reviewing the general scope, feasibility and impact of a proposed project.

Structure

Anything constructed, the use of which requires fixed location on the ground; or, anything attached to something having such location. A structure does not include fences, individual driveways, or retaining walls.

SECTION 1203 PERMIT PROCEDURES AND REQUIREMENTS

Section 1203.1 Permit Procedures

Salvage yard proposals are reviewed at three stages:

1. Application Conference - Staff
2. Community Impact Evaluation - Planning Commission
3. Final Public Hearing - Planning Commission

Upon request, exceptions from the review process may be granted by the Planning Commission for salvage yard proposals which are small and appear to have little Impact on the County. The Planning Commission may advance such proposal directly to the Final Public Hearing stage, provided a site inspection by the Staff reveals no apparent difficulty. Although certain requirements for documentation of the proposal may be waived, advancing the application shall not exempt a proposal from other requirements of this ordinance.

- a. A permit application shall be made, on forms provided by the Planning Commission and shall be submitted to the Planning Commission Office. In addition, the applicant shall submit the following information:
 1. Community Impact Statement as required in Section 1203.2.
 2. Sketch Plan as required in Section 1203.3.
 3. Appropriate certificate of approval (entrance permit) from the West Virginia Department of Highways.
 4. Other permits, licenses or approval required under County, State or Federal Laws or official documentation that application has been made and received for such approvals.
- b. Upon submission of a completed application and required information, an APPLICATION CONFERENCE shall be scheduled between the applicant and the Planning Commission Staff.
- c. At the APPLICATION CONFERENCE the applicant and staff review and discuss the materials submitted. The scope of the proposed salvage yard is examined according to the impact it will have on the physical, social, and economic conditions within the County. Modifications to the County Impact Statement or the sketch plan are made by the applicant, if appropriate. The applicant is advised of the date and time his proposal will be brought before the Planning Commission for the Community Impact Evaluation. Regular meetings of Planning Commission are normally held on the third Wednesday of each month.
- d. Planning Commission places a legal notice in a newspaper, having general circulation within the affected area no less than 30 days prior to the meeting, advising the public of the Community Impact Evaluation before the Planning Commission.
- e. COMMUNITY IMPACT EVALUATION is presented to the Planning Commission during a regular meeting. The Planning Commission reviews the sketch plan and Community Impact Statement. The Planning Commission renders a decision whether to approve the concept, require additional information, or deny the-application. Examples of other information which may be required are a more detailed Community Impact Statement or a detailed site plan; in the event the application is denied, the applicant may request a Public Hearing on his application.
- f. If the salvage yard application is disapproved, the applicant is advised in writing of the Planning Commission action and of the specific reasons upon which the action was based.

- g. If the application is approved in concept or the applicant submits the information required by the Planning Commission, and is deemed sufficient by the staff to meet the concerns of the Planning Commission, a date shall be set for a public hearing at a regular meeting of the Planning Commission.
- h. The Planning Commission shall place a notice of public hearing in a newspaper having general circulation within the affected area no less than 30 days prior to the hearing.
- i. The public hearing is held before the Planning Commission in order to solicit new or revised information from the public not previously considered at the Community Impact Evaluation stage. The Planning Commission, after considering public comment, all previous information and comment, the provisions of this Ordinance, and the provisions of Section 17-23-4 of the Code of West Virginia, may approve, approve with conditions or disapprove the salvage yard proposal.
- j. The Planning Commission shall approve, approve with conditions or disapprove a salvage yard proposal within forty-five days from completion of the public hearing. Failure to take action within forty-five days shall result in the approval of the application, unless a waiver of this time period is granted to the Planning Commission by the applicant.
- k. If the salvage yard application is approved with conditions, the conditions must be met prior to issuance of a permit, where applicable, or must be attached to the permit.
- l. If the salvage yard application is disapproved, the applicant is advised in writing of the Planning Commission action and of the specific reasons upon which the action was based.

Section 1203.2 Community Impact Statement

All salvage yard proposals shall be accompanied by a written Community Impact Statement (CIS). The purpose of the CIS is to provide the Planning Commission with much of the information necessary to consider the potential impacts the salvage yard may have on a specific site, on the surrounding areas and on the County as a whole. The content shall be sufficient to permit an examination of these impacts.

- a. Basic descriptive information about a salvage yard proposal shall include:
 - 1. Name and address of owner/developer.
 - 2. Name and address of contact person.
 - 3. Tract size, shape and location, and the amount or portion to be used as a salvage yard, if not all.

4. General description of the nature of the salvage yard, the types of materials to be stored, and the anticipated market for salvage purchased and sold by the operator.
 5. Number, approximate size and location and intended functions or use of proposed buildings on the sites, if any.
 6. General description of surface conditions (topography).
 7. Soil and drainage characteristics.
 8. Existing natural or manmade features including, vegetative cover, water bodies, quarries, and rock outcroppings.
 9. General location and description of existing structures.
 10. General location and description of existing easements or rights-of-way.
 11. Existing covenants and restrictions.
 12. Intended improvements.
 13. Intended earthwork that would alter the topography.
 14. Proposed covenant and restrictions.
 15. Tentative development and construction schedule.
 16. Anticipated projects costs.
- b. A discussion of the relationship of the proposed salvage yard shall consider the following items:

Physical Impacts

1. Earthwork, as it affects drainage, removal of vegetation and soil, and alteration of the natural terrain.
2. Conversion of farmland to a non-farm use.
3. Wildlife populations.
4. Groundwater and surface water resources use, depletion, contamination, flow change.

5. Compatibility of the proposal with the surrounding area In terms of land use and visual appearance.
6. Impact on sensitive natural areas such as water recharge areas, stream and river banks, hillsides, forests, wetlands and water bodies.
7. Geologic impacts and limitations of the site.

Social Impacts

8. Traffic characteristics--type and frequency of traffic; adequacy and safety of existing transportation routes and facilities; origin and destination of traffic.
9. Fire and police protection--on site measures to minimize the risk of fire and steps to minimize vandalism.
10. Sewer and water facilities, if any.
11. Proximity and relationship to known historic features.
12. Relationship of the project to the Comprehensive Plan.

Economic Impacts

13. Property tax evaluation.
14. Local employment implication.
15. Expected changes in property values.

The method by which the applicant prepares and presents a CIS is left to the discretion of the applicant. However, upon a request by the Planning Commission for additional information pursuant to Section 1203.1 (e), an applicant may be required to prepare a CIS in accordance with standardized outline currently utilized for the purpose by the Planning Commission and Staff.

Section 1203.3 Sketch Plan

A sketch plan shall be submitted with an application for a salvage yard. The sketch plan shall be on white paper and shall show in simple form the layout of the proposed salvage yard. The sketch plan may be drawn free hand at a scale acceptable to the Engineer. Contour lines as shown on the appropriate U.S.G.S. Topographical Quadrangle map should be transferred to the sketch plan. In addition the sketch plan shall show the following information:

- a. Natural features such as watercourses, rock outcroppings, sink holes, quarries and wooded areas.

- b. Areas proposed for the storage of salvage and the specific type of salvage proposed.
- c. Location of buildings or structures, if any.
- d. Proposed access and the internal road network.
- e. Parking areas for customer and employee parking.
- f. Measures proposed to manage storm water and to minimize erosion.
- g. Salvage and building setback lines.

The applicant will be required to submit a detailed site plan prepared by a licensed surveyor or engineer indicating the specific site characteristics, proposed storm water management plans, erosion and sediment controls and detailed construction plans for all improvements. Additional information or detail may be required by the County Engineer.

Section 1203.4 Performance Guarantees

When there appears to be a need to ensure that certain improvements are completed or the salvage yard is maintained and operated in accordance with this Ordinance, the Planning Commission may require that a construction bond, or other form of surety, be provided. The form of surety and the amount shall be acceptable to the Planning Commission and the County Engineer and must be approved by the County Commission.

Section 1203.5 Fees

A fee of twenty-five dollars (\$25.00) shall be charged for each application submitted to the Planning Commission for a salvage yard. This fee is in addition to any Improvement Location Permit fee, applicable for the construction of buildings and Public Hearing fees.

SECTION 1204 LOCATION AND SITE DESIGN STANDARDS; OPERATING REQUIREMENTS

Section 1204.1 Location Standards

A Salvage Yard shall not be established unless it meets all of the following local standards:

- a. No salvage yard shall be located closer than 1000 feet of existing residence.
- b. No salvage yard shall be located within 1000 feet of any existing public or private school, or land owned by the Hampshire County Board of Education, or a Public or private playground, park or recreation area.
- c. No salvage yard shall be located within 200 feet from any year-round stream, run, river, pond or other water body. In addition, salvage yards are prohibited within a

Flood Prone Area as determined by the Flood Study prepared for Hampshire County dated November 7, 2002 or, the Flood Insurance Rate Maps dated November 7, 2002.

- d. All salvage yards should have direct access to a State highway. Access through a private road may be considered if the applicant provides written evidence that the following criteria is met:
 1. All private road rights-of-way shall be at least 40 feet in width. Greater rights-of-way widths may be required by the County Engineer and
 2. All private rights-of-way shall be an exclusive right-of-way, OR
 3. All parties of interest in a non-exclusive right-of-way shall consent to the use of the private road for the purpose of a salvage yard.

Section 1204.2 Site Design Standards

In establishing a salvage yard, all of the following requirements and standards must be met:

- a. Setbacks
 1. All salvage yard area shall be set back a minimum of 1000 feet from a State road right-of-way and 1000 feet from a private road right-of-way. Where greater setbacks are required by State or Federal Law, the more restrictive shall apply.
 2. All salvage material shall be stored no closer than 15 feet from the perimeter fence or screening to allow access for emergency and fire fighting equipment.
 3. Any structure intended for the burning or incineration of salvage materials shall be no closer than 100 feet from any property boundary.
- b. Fencing and Screening
 1. All outdoor storage of salvage material shall be conducted entirely within an enclosed fence, wall, or other solid screen, the minimum height of which will be 10 feet (i.e., 120 inches) such areas that the fence will be abutting a State road, open field, or any open spaces, a vegetative screen of coniferous trees shall be planted along the exterior perimeter of the fence, wall, or solid screen. All driveways through the fence shall be similarly screened. Such solid screen shall be constructed on the front, sides, and rear of the storage area, in accordance with the setbacks above, and shall be constructed in such a manner that no salvage material is visible from an adjacent property, private road or State road.
 2. The construction of fences or screening shall be uniform and no patchwork type construction shall be permitted.

c. Parking

One off-street parking space shall be provided for each employee. In addition, two spaces per acre of the salvage yard area shall be provided for patrons up to a total of 12 spaces. Additional parking spaces may be required by the Planning Commission, depending on the total acreage of the salvage yard.

d. Size

Minimum size for a salvage yard is 5 acres.

Additional site design standards may be required by the Hampshire County Planning Commission at the recommendation of the Planning Commission staff or the County Engineer pursuant to the purposes of this Ordinance (Section 1201.2 Purpose).

Section 1204.3 Operating Requirements

All salvage yards located within the unincorporated portions of Hampshire County shall comply with the following requirements:

- a. The storage of salvage material outside the perimeter fence or within the setbacks required by the State of West Virginia, whether temporary or permanent, shall be prohibited, unless stored within a building.
- b. All fencing and screening shall be maintained in a manner acceptable to the Land Development Coordinator, and all plant material used for screening shall be maintained in a live and healthy condition.
- c. All salvage materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin. Where necessary, this shall be accomplished by enclosures in containers, raising material above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures, or other means.
- d. All storm water shall be controlled on site so as to prevent standing water and to minimize any adverse effect on adjoining property.
- e. No salvage material shall be allowed to rest upon or protrude over any public street or become scattered or blown off the premises.
- f. Salvage shall be stored so as to permit easy access to all salvage for fire fighting purposes, including a 15 foot buffer area around the perimeter of the salvage yard.
- g. No salvage or other material shall be burned on the premises unless in a structure or location approved by the local fire service.

- h. The storage of electrical transformers, whether temporary or permanent, shall be prohibited.
- i. The storage of materials classified as hazardous waste by the State of West Virginia shall be prohibited.
- j. Gasoline, oil, anti-freeze and all other fluids shall be removed from any scrapped engines, vehicles or machinery prior to storage on the premises. All fluids removed shall be properly disposed of off the premises.
- k. No combustible materials of any kind, other than those necessary for the salvage yard or products of processing salvage material shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.
- l. No space not included in the permit approved by the Planning Commission shall be used for the storage of salvage material.
- m. The Land Development Coordinator, or any other representative of the County Planning Commission shall have the right to inspect the premises of any salvage yard, either announced or unannounced, and at any reasonable time, for the purposes of enforcing this Ordinance.

SECTION 1205 ADMINISTRATION, ENFORCEMENT, VIOLATIONS

Section 1205.1 Administration

This Ordinance shall be administered by an employee of Hampshire County Planning Commission to be known as the Land Development Coordinator. It shall also be the duty of the Land Development Coordinator to function as enforcement officer as is becomes necessary to initiate administrative or judicial remedies against Salvage Yard Ordinance violators. The Land Development Coordinator shall be under the supervision of the Planning Director and, where a Land Development Coordinator has not been appointed by the Planning Commission, the Planning Director shall be designated as Land Development Coordinator.

Section 1205.2 Enforcement

Enforcement of this Ordinance shall be the responsibility of the Land Development Coordinator, who shall make an initial interpretation that a violation has occurred. The Land Development Coordinator shall prepare a written Violation Notice and Directive to Cease and Desist and shall transmit such notice and directive by certified mail, return receipt requested, to the person responsible for the violation. Failure to comply with a Directive to Cease and Desist shall be cause for the Planning Commission to declare the violation a common nuisance. Upon such declaration, the Planning Commission shall instruct the Land Development Coordinator to request the assistance of the County Prosecuting Attorney and/or other legal council and

- a. Seek an injunction in the Circuit Court of Hampshire County to restrain the responsible person from continuing the violation cited or seek an injunction requiring removal of structures or land uses from the property involved, OR
- b. Proceed by criminal warrant or information against the person in violation; or both a and b

Section 1205.3 Violations

It shall be unlawful for any person, whether as owner, lessee, principal, agent, employee or otherwise, to violate or permit to be violated any provision of this Ordinance.

Section 1205.4 Penalty

Any person violating any provision of this Ordinance, whether as principal, agent or employee, shall be deemed, guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars in accordance with Chapter 17, Article 23, Section 9 of the Code of West Virginia. Each month, or portion of a month in which a violation of this Ordinance is committed, continued or permitted, shall constitute a separate offense.

**SECTION 1206 VARIANCE, APPEAL, AMENDMENT, CONFLICT WITH
OTHER LAWS; VALIDITY**

Section 1206.1 Variance

Any request for a variance from the provisions of this Ordinance shall be made in written form and shall be submitted to the Planning Commission by the Applicant. A variance request shall clearly specify the nature of the variance being requested and the reasons for the request.

A variance request may be granted by the Planning Commission only when it is determined that:

- a. The request is not contrary to the public interest.
- b. A literal enforcement of this Ordinance will result in unnecessary hardship.
- c. The request is not the result of a self-imposed hardship.
- d. The spirit of this Ordinance will be observed and substantial justice done.

Section 1206.2 Appeal

An appeal regarding the administrative procedure exercised under the provisions of this Ordinance shall be filed with the Hampshire County Commission.

All appeals specify the grounds thereof and shall be filed with the appropriate governmental body within thirty (30) days after the date of the order, decision or procedure complained of.

Section 1206.3 Amendment

By legislative procedure, the Hampshire County Commission may, from time to time, amend, supplement or change the provisions of this Ordinance.

Section 1206.4 Conflict With Other Laws

Where the provisions of this Ordinance impose greater restrictions than those of any other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation propose greater restrictions than this Ordinance, the provisions of such statute, ordinance or regulation shall be controlling. This Ordinance shall not be construed in any manner that is not consistent with the purposes and provisions of State law governing the licensing and maintenance of salvage yards.

Section 1206.5 Validity

If any article, section, subsection, paragraph, clause or provision of this Ordinance shall be declared by court of competent jurisdiction to be invalid, such decisions shall not affect the validity of this Ordinance as a whole or any other part thereof.

SECTION 1207 ENACTMENT

Passed on FIRST READING this the 18 day of December, 2002.

Passed on SECOND AND FINAL READING this 7 day of February, 2003.

PRESIDENT OF THE HAMPSHIRE COUNTY COMMISSION, HAMPSHIRE
COUNTY, WEST VIRGINIA

SIGNED: _____

ATTEST: _____