

GARRETT COUNTY JUNKYARD ORDINANCE

Adopted

November 6, 1978

Amended November 6, 1979

Amended June 15, 1983

March 7, 1988

BOARD OF GARRETT COUNTY COMMISSIONERS

WHEREAS the General Assembly, by Section 122A of Article 25 in the Annotated Code of Public General Laws of Maryland has authorized counties to adopt rules and regulations for the licensing, control, location and maintenance of junkyards and the like; and

WHEREAS the regulation and licensing of junkyards is appropriate and desirable to promote the general welfare and protect property values in Garrett County; and

WHEREAS a duly advertised public hearing on the proposed rules and regulations has been held in compliance with Section 122A(d) in Article 25 of the Annotated Code;

NOW, THEREFORE, BE IT RESOLVED THAT THE GARRETT COUNTY BOARD OF COUNTY COMMISSIONERS DO HEREBY ADOPT THE FOLLOWING, BEING

AN ORDINANCE, adopted on the 9th day of October, 1978, to take effect on and from the 6th day of November, 1978, promulgating rules and regulations for the licensing, control, location and maintenance of junkyards and the like within Garrett County.

ARTICLE I. GENERAL PROVISIONS

- 100 Short Title - This Ordinance shall be known and may be cited as the Garrett County Junkyard Ordinance.
- 101 Applicability - This Ordinance shall apply to all junkyards as hereinafter defined, located or to be located within Garrett County, except that this Ordinance shall not apply within the limits of any incorporated municipality.
- 102 Purposes - the Board of County Commissioners finds and declares that it is in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards for the purposes of:
- A. Protecting the residents of the County from unpleasant and unwholesome conditions and neighborhoods;
 - B. Preserving the beauty and esthetic value of rural and residential areas;
 - C. Conserving and protecting property values;
 - D. Safeguarding public health and welfare;
 - E. Promoting good civic design; and
 - F. Promoting the health, safety, order, convenience, prosperity and general welfare of the County.

103 Severability

It is hereby declared to be the intent of the Board that the provisions of this Ordinance are separable, whereby:

- A. If a court of competent jurisdiction declares any provision of the Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the provision expressly stated in the court's decision, and all other provisions of this Ordinance shall continue to be separately and fully effective, the Board hereby declaring that they would have adopted the remaining provisions without the word, phrase, clause, items, sentence, paragraph or section, or the application thereof, so declared invalid.
- B. If a court of competent jurisdiction finds the application of any provision of this Ordinance to any lot, building or other structure, or tract of land to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the court's decision, and the application of any such provision to other persons, properties or situations shall not be affected thereby.

104 Effect on Other Laws

This Ordinance does not abrogate or affect any statute, ordinance, regulation, or resolution that is more restrictive in the regulation of junkyards, automotive dismantler and recycler facilities, or scrap metal processing facilities than this Ordinance.

ARTICLE II. DEFINITIONS

200 General Provisions

- A. Unless the context clearly indicates a contrary meaning, the following rules of construction shall apply in interpreting this Ordinance:
 1. Words used in the present tense include the future;
 2. The singular number includes the plural, and the plural the singular;
 3. The word "shall" is always mandatory; the word "may" is permissive;
 4. The words "used" or "occupied" as applied to any land or building, includes the words "arranged or designed or intended to be used or occupied".
- B. Unless otherwise expressly stated, the definitions of words and terms contained in this Article shall be used in interpreting this Ordinance. Words not herein defined are used with a meaning of standard usage.

- 201 Automobile Junkyard or Automotive Dismantler and Recycler Yard - means an establishment, property or place of business that is maintained, operated or used for storing or keeping wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts for the purpose of buying or

selling the same, or used for the purpose of storing more than five wrecked vehicles pending final settlement of insurance matters. Vehicles impounded by the Maryland State Police or the Garrett County Sheriff's Office shall be exempted from the number of vehicles tallied.

- 202 Board - means the Garrett County Board of County Commissioners
- 203 CLERK - means the clerk to the Board of County Commissioners
- 204 INSPECTOR - Means the person designated by the Board to Administer the Ordinance.
- 205 Junk - means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, and other old or scrap materials, including wrecked, scrapped ruined or dismantled motor vehicles or motor vehicle parts.
- 206 Junkyard - means an establishment, property, or place of business that is maintained, operated, or used by any person, firm or corporation;
- (A) for an automobile junkyard, automobile recycle yard, heavy equipment, farm equipment or other junkyard; or
 - (B) As a public dump or sanitary fill; or
 - (C) As a scrap metal processing facility; or
 - (D) For storing or keeping junk deposited within visual sight of any interstate, State or County highway or road and which said junk occupies an area greater than (1,000) one thousand square feet of land area.
- 207 Nonconforming junkyard - means a junkyard lawfully existing on the effective date of this Ordinance, which does not comply with one or more of the standards prescribed in Article IV of this Ordinance.
- 208 Person - means a corporation, institution, partnership, trust, association or any legal entity as well as a natural individual.
- 209 Public dump or landfill - means a property used as a sanitary landfill site for refuse disposal under the authority of a permit issued by the Secretary of Health and Mental Hygiene pursuant to Section 394 in Article 43 of the Annotated Code of Maryland.
- 210 Structure - means a combination of materials assembled, constructed or erected at a fixed location, the use of which requires location on the ground or attachment to something having location on the ground. The word "structure" shall include any part thereof.

Title 9 of Environmental Article

Article III. ADMINISTRATION

300 License required - No person may establish, operate, or maintain a junkyard, or expand the area of any existing junkyard without first having obtained a license from the Board pursuant to this Ordinance.

301 Issuance of license

- A. Every nonconforming junkyard shall have the right, if exercised within ninety days from the effective date of this Ordinance, to receive a license, subject to the provisions of Section 301.G., below. Thereafter, no junkyard shall receive an initial license, nor shall any junkyard be expanded pursuant to Section 304, except in full compliance with this Ordinance.
- B. Each application for a license shall:
1. Be made on a form supplied by the Board:
 2. Include the information required by the Board for review of the application;
 3. Be signed by the applicant or the duly authorized agent of the applicant; and
 4. Be accompanied by a plat drawn at a scale no smaller than one inch equals one hundred feet, showing:
 - (a) The boundaries of the junkyard, and the proposed setbacks in compliance with Section 401, below; and
 - (b) The location and type of any existing or proposed screening in compliance with Section 402, below; and
 - (c) A general location map, which may be on a separate sheet and at a different scale.
- C. The applicant shall also submit, with the application, a detailed summary of the nature of the business to be carried on, on the premises.
- D. Two copies of the completed application form and accompanying plat shall be filed with the Inspector. Within ten (10) working days, the Inspector shall:
1. Review the materials to determine whether or not the application and plat comply with the provisions of this Ordinance; and either
 2. Return the materials to the applicant with a written indication of the corrections required to bring the application into compliance; or
 3. Forward the materials to the Board for their action.

- E. Within ten working days from their receipt of the application materials from the Inspector, the Board shall either:
1. Approve or deny the application, pursuant to paragraph F below; or
 2. At the Board's discretion, schedule a public hearing on the application, which shall be held not less than fourteen nor more than thirty days from the date of the Board's decision, and notice of which shall be advertised two consecutive weeks beforehand in a newspaper of general circulation in the County.
- F. The Board shall approve the application unless the Board makes a written finding of facts stating the reasons why approval would be contrary to the public interest or detrimental to the public health, safety, or general welfare. In the event that the application is refused, the processing fee will be returned, less \$100.00, to cover administrative costs.
- G. In the case of a nonconforming junkyard, the Board shall approve the application; provided, however, that if the Board finds that the strict application of the standards contained in Article IV of this Ordinance would result in unnecessary hardship upon the applicant, the Board shall have the authority to modify the application and to grant a temporary or permanent variance as specifically provided in Article IV.
- H. After the approval by the Board, the applicant shall receive the license promptly upon payment of the fee specified in Section 306 below.
- 302 Term of license - For the purpose of this Ordinance, the license year, extends from July 1 to June 30, and every license issued hereunder shall expire unless renewed before the end of the license year.
- 303 Renewal of license - Every person holding a valid junkyard license shall be entitled to renewal of the same upon payment of the annual renewal fee specified in Section 306, below.
- 304 Amendment of license - A person proposing to expand the area or add additional structures in a previously licensed junkyard shall follow the procedures specified in Section 301, except that the applicant shall be required to submit only those portions of the application materials containing revised information pertinent to the proposed expansion or addition, and pay the fee outlined in Section 306 below.
- 305 Transfer of license - A valid junkyard license shall be transferable to another person upon the submittal of an application form and the payment of the fee specified in Section 306, below.
- 306 Fees - No license for a junkyard shall be valid until the applicant has paid to Garrett County the license fee in accord with the following schedule.

- A. For the processing and initial issuance of a license to a new dealer: \$500.00
- B. For the annual renewal of a currently valid license: \$25.00
- C. For each amendment of a currently valid license: \$100.00
- D. For the transfer of a currently valid license: \$100.00.
- E. For the processing, and initial issuance of a license for an existing dealer: \$100.00

307 Inspections - the Board may, from time to time, but not less than annually, order the inspection of any licensed junkyard to determine its compliance with this Ordinance. Every licensee shall allow such inspection of the junkyard premises by the person and persons appointed by the Board.

Suspension or Revocation of License

- 308 A. Whenever the Inspector shall determine that there are reasonable grounds to believe that there has been a violation, he shall give notice of such alleged violation to the person or persons responsible therefore as hereinafter provided, and said official shall also notify the Board of such alleged violation in writing. Such notice shall:
- (1) be put in writing
 - (2) include a statement of the reasons why it is being issued.
 - (3) allow for a period of sixty (60) days for the performance of any act it requires.
 - (4) include a statement specifying the person or persons right to appeal the violation notice pursuant to Section 308B. below.
 - (5) be served upon the owner or his agent, provided that such notice shall be deemed to be properly served upon such owner or agent if a copy thereof is served upon him personally, or if a copy thereof is sent by certified mail with return receipt requested to his last known address. If notice cannot satisfactorily be served as specified above, then a copy of said notice may be posted in a conspicuous place in or about the junkyard or salvage yard affected by the notice or if he is served with such notice by any other method authorized or required under the laws of the State
- B. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this

Ordinance and with rules and regulations adopted thereto. Any person affected by any notice which has been issued in connection with the enforcement of any of the provisions of this Ordinance or any rule or regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Board, provided such person shall file in the office of the Board a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within fourteen (14) days after the day the notice was served. Upon receipt of such petition, the Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than fourteen (14) days after the day on which the petition was filed, provided that upon application of the petitioner, the Board may postpone the date of the hearing for a reasonable time beyond such fourteen day period if in its judgment the petitioner has submitted a good and sufficient reason for such postponement. After such hearing the Board shall sustain, modify or withdraw the notice, depending upon its findings as to whether the provisions of this Ordinance have been complied with. The proceedings at such hearing, including the findings and decision of the Board, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Board. Such records shall also include a copy of every notice issued in connection with the matter.

- C. At the conclusion of the sixty day correction period, the Inspector shall conduct an on-site inspection of the junkyard or salvage yard affected by the notice to determine compliance. If the Inspector finds that the violation has been corrected, he shall notify the owner, in writing, of his compliance. If the Inspector finds:
- (1) that corrective measures have not been taken, he shall initiate appropriate action against the person or persons affected by the notice. Such action may include, in addition to the remedies provided in Article V below, an order for the revocation of any junkyard license by the Board; or
 - (2) if the Inspector finds that the person or persons responsible for the violation have made a good faith effort to correct the violation, the Inspector may provide notice

to perform such further corrective measures as deemed necessary by the Inspector. Such notice shall be issued pursuant to Section 308A above and may be appealed pursuant to Section 308B. If all corrective measures have not been fulfilled by the conclusion of the second notification period, the Inspector shall initiate appropriate action as specified in Section 308C(1) above.

- D. Whenever the Inspector shall find that an emergency exists which requires immediate action to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that corrective action be taken within 30 days or as he deems necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon filing a petition with the Board, shall be afforded a hearing within seven (7) days of the receipt by the Board of such petition. After such hearing, depending upon its findings as to whether the provisions of this Ordinance have been complied with, the Board shall continue such order in effect, modify it or revoke it.
- E. Any person aggrieved by this decision of the Board may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

ARTICLE IV. STANDARDS

400 General Provisions

- A. The requirements of this Ordinance shall be supplementary to and shall not contravene any requirements pertaining to junkyards specified in any zoning ordinance adopted by the Board pursuant to the authority of Article 66B of the Annotated Code, but the provisions of this Ordinance shall prevail to the extent that they are more restrictive.
- B. Every junkyard required to comply with Subtitle 8 of the Transportation Article of the Annotated Code, and more specifically, with the regulations promulgated thereunder, shall also be required to comply with the requirements of Article IV in this Ordinance.

- C. Any junkyard lawfully existing and licensed by the Board before March 7, 1988, but which does not conform to the standards set forth in Sections 401 and 402, may continue to operate provided that the junkyard complies with standards and conditions set forth in the junkyard's initial license as approved by the Board. After March 7, 1988 no junkyard shall be licensed nor any junkyard expanded except in full compliance with this Ordinance.

401

Setbacks

- A. No portion of a junkyard property that is occupied for junkyard purposes may be located closer than the following distances:
1. From the right-of-way line of a public road or highway; 100 feet
 2. From side boundary lines not bordering a right-of-way of a public road or highway: 50 feet
 3. From any land owned or leased by a government agency for recreation, open space, conservation or related purposes: 500 feet
 4. From a residence, retail business, school, hospital, church or other institutional facilities - 500 feet, unless from the evidence submitted, the Board concludes the proposed method of screening the junkyard would effectively prevent the junkyard from being detrimental to or detracting from the value of every such use.
- B. Upon a finding of unnecessary hardship pursuant to Section 301G, the Board may, in the case of a non-conforming junkyard:
1. authorize a permanent setback variance from any permanent structure;
 2. establish permanent setback lines less stringent than those specified in Section 401A, provided that such setbacks shall conform as nearly as is reasonably possible under the circumstances to the setbacks specified in Section 401A; and
 3. authorize a temporary setback variance for a period not exceeding nine months, within which time all "junk" materials and non-permanent objects and structures shall be moved to comply with the permanent setback lines established through the preceding paragraph 2.

402

Screening

- A. Each licensed junkyard shall, within nine months of the issuance of the license, be enclosed to screen the junkyard from view by the travelling public and from adjoining properties. Such screening shall consist of vegetative or structural materials, or both, as specified by the Board. The Board may waive the requirement for installing additional screening where the Board concludes that the junkyard will not be visible from a public road or from every adjoining property, provided that the applicant agrees to maintain such screening as then exists.

- B. Said screening shall be installed by the licensee in accordance with plans approved by the Board as part of the license, and shall be maintained in good order and repair by the licensee. Said screening shall be constructed according to setback requirements in Section 401 of this Ordinance.
- C. Vegetative screening shall be preferred, to consist of trees, shrubs, or other plant materials of such aggregate size, location and density as to comply with sub-section A above. The screening shall, at the time of planting, be not less than five feet in height and shall be designed to grow to and shall be maintained at a height of not less than seven feet. The screening shall ordinarily have a depth of not less than ten feet measured perpendicularly from tree centers. The vegetative screening shall consist of two staggered rows of trees with the rows being ten (10) feet apart measured perpendicularly from tree centers. Trees within the respective rows shall be spaced not further than twelve (12) feet apart (measured from centers). The proposed species of vegetation shall be indicated on the site plan submitted in accordance with Section 301B. The Board shall, upon request, supply a list naming desirable vegetative species to fulfill this vegetative screening requirement.
- D. In lieu of vegetative screening, the Board may authorize and require screening constructed of mounded earth, wood, stone, or brick, or other appropriate material, if the Board finds that such constructed screening would be more harmonious than vegetative screening with the present or intended future character of the neighborhood. If authorized by the Board, said screening shall be sightly and shall not be of a different quality, type, or dimension, and shall be maintained and/or painted so as not to detract from the surroundings. Said screening shall be kept in good repair at all times and shall have no openings through which persons or animals may enter, except for doors or gates necessary for ingress or egress to said junkyard, which said doors or gates shall be kept closed except when actually needed for ingress or egress.
- E. Upon a finding of unnecessary hardship pursuant to Section 301G, the Board may, in the case of a non-conforming junkyard, authorize a permanent variance from the requirement in Section 402A that the junkyard be completely screened. Such variances shall be sparingly granted, and only in the case where the Board finds, from an examination of the topographical character of the properties involved, that it would not reasonably be possible to achieve complete screening; such variances shall be granted only for as much of the perimeter of the junkyard as meets this criterion, and shall not relieve the licensee of the responsibility to install and maintain as much screening as the Board shall judge reasonable under the circumstances.

403

Access

- A. ~~No driveway or other point of vehicular access to a junkyard shall intersect any public road within one hundred feet of the point of intersection of two public roads, measured along the centerlines thereof.~~
- B. Except in unusual circumstances, the Board shall not authorize more than one driveway or other point of vehicular access for every three

hundred feet of frontage of a junkyard along a public road. No such driveway shall be more than thirty feet in width.

- C. Upon a finding of unnecessary hardship pursuant to Section 301G, the Board may, in the case of a nonconforming junkyard, authorize an access variance, either permanently or for a period not to exceed nine months.

404 Operating standards

- A. No junk may be stacked or stored to a height greater than the height of the screening enclosing the junkyard.
- B. Burning of waste materials within a junkyard shall be permitted only in strict compliance with applicable County and State air quality regulations.
- C. The Board may, in the license of any junkyard, prescribe reasonable limits on the hours of operation at the junkyard, taking into account the type and proximity of development existing on nearby properties.

405 Signs

- A. Every junkyard shall be entitled to have not more than one identification sign on the premises. Such sign shall not be larger than two-hundred square feet in size. No part of such sign shall extend more than twenty feet above the ground.
- B. No sign shall constitute a public safety or traffic hazard, such as by obstructing traffic signals, traffic signs, road warning signs, street name signs, or the full view of the traffic in all directions at driveways, entranceways, or any other intersections on a public road.
- C. Lighting devices shall be shielded so that they do not create a glare or a nuisance by shining directly into a public street or highway or into an adjoining property. Flashing or rotating flashing illumination of a sign shall be permitted.

ARTICLE V. AMENDMENTS AND PENALTIES

500 Amendments - The Board may from time to time amend, supplement, modify or change this Ordinance. When doing so, the Board shall comply with the public notice and hearing requirements of Section 122A (d) in Article 25 of the Annotated Code.

501 Enforcement and Remedies

- A. A violation of any section of this Ordinance, including the maintenance or operation of any such junkyard or dump without a license, is a misdemeanor, subject upon conviction to a fine of not less than fifty dollars (\$50.00). Each day on which a violation continues is a separate offense.
- B. If a junkyard, automotive dismantler and recycler facility, or scrap metal processing facility is in violation of any provision of this Ordinance, the appropriate authorities of Garrett County, in addition to other remedies, may institute an injunction in a court of competent jurisdiction to prevent any illegal act, conduct, business or use in or

about such premises. The rights and remedies provided in the Ordinance are cumulative and are in addition to all other remedies provided by law.

DULY ADOPTED by vote of the Board of County Commissioners this 9th day of October, 1978 by the Board of County Commissioners.

Wayne B. Hamilton
Don S. Bender
George C. Edwards

AMENDMENTS to this Ordinance
have been made

November 6, 1979

June 15, 1983

March 7, 1988