

Sampson County Junk Yard Control Ordinance

WHEREAS, North Carolina General Statute Chapters 153A, Section(s) 121, 134 and 140 enables the County to enact an ordinance for the control of junk yards and to provide for its administration, and enforcement; and

WHEREAS, the Sampson County Board of Commissioners deems it necessary for the purpose of promoting the health, safety, and general welfare of Sampson County to enact such an ordinance; and

WHEREAS, the Board of Commissioners hereby finds and declares that the establishment, use, and maintenance of junk yards, in the vicinity of the state maintained public roads, in residential areas and in proximity to public facilities within Sampson County should be regulated and controlled;

NOW, THEREFORE, BE IT ORDAINED by the Sampson County Board of Commissioners.

Section 1: INTENT

The purpose and objectives for which this Ordinance is adopted and enacted are as follows:

- A. To promote the public health, safety, and general welfare.
- B. To preserve the natural scenic beauty of areas in the vicinity of the state maintained public roads.
- C. To protect the public from health nuisances and safety hazards by controlling vectors, concentrations or volatile or poisonous materials, and sources of danger to children.

Section 2: TITLE

These regulations shall be known and may be cited as the "Junk Yard Control Ordinance of Sampson County, North Carolina" an/or the "Sampson County Junk Yard Ordinance".

Section 3: GEOGRAPHIC COVERAGE

These regulations shall be in effect in all unincorporated portions of Sampson County which are not under the jurisdiction of any municipal zoning ordinance. Any incorporated municipality may adopt this Ordinance by reference and make the same applicable to all areas within its respective zoning jurisdiction.

SECTION 4: DEFINITIONS

For the purpose of this ordinance, certain words and terms are defined as herein indicated:

Abandoned Manufactured Home (added 7/2006)

1. A manufactured home that is not being occupied as a dwelling and does not provide complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation or a manufactured home that has not received the proper permits to be located within the County's jurisdiction or
2. A structure which is a manufactured/mobile home which is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities or
3. Any structure, which is manufactured/mobile home that was designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and has been deemed a nuisance due to public safety or public appearance by the Sampson County Planning Department.

Automobile Graveyard - Any tract of land, establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts for profit and shall include any tract of land, establishment or place of business upon which more than six (6) such motor vehicles which cannot be operated under their own power, and not being restored to operable condition, and which are kept or stored for profit for a period of 90 days or more.

Enforcement Officer - The County Manager or his designee.

Establishment - Any place, land, building or structure on which or in which there is operated or maintained a business or going concern.

Farm - Singularly or jointly owned land parcel or contiguous parcels on which agricultural operations are conducted as the primary use. Agricultural operations include but are not limited to cultivation of crops, the husbandry of livestock, and forestry.

Garage - Any establishment or place of business which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, and which may store as many as six (6) motor vehicles that are

not capable of being driven under their own power and are not being restored to operable condition, regardless of the length of time that individual motor vehicles are stored or kept at such property. If the garage is listed as a business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six (6) additional motor vehicles as described herein may be allowed.

Health or Safety Nuisance - A motor vehicle, used machinery, or other used materials may be declared a health nuisance or safety hazard when it is found to be:

1. A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests; or
2. A point of collection for pools or ponds of water; or
3. An unsafe concentration of gasoline, oil or other flammable or explosive materials; or
4. So located that there is a danger of the vehicle falling or turning over without assistance; or
5. A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside; the over turning of heavy items; or
6. An unsafe concentration of car radiators, batteries, or other materials that pose either a hazard of immediate or long-term environmental degradation.

Junk - Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, refrigerators, stoves, household, appliances, salvaged building materials, salvaged machinery parts, dismantled or wrecked automobiles, or parts thereof, iron and steel and other scrap ferrous or non-ferrous material, abandoned manufactured homes and dilapidated travel trailers. (amended 7/2006)

Junked Motor Vehicle - A vehicle that does not display a current license plate and that:

1. Is partially dismantled or wrecked; or
2. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
3. Is more than five (5) years old and appears to be worth less than \$100.00.

Junk Yard - Any establishment, place of business or place which is maintained, operated, or used for storing, keeping, buying or selling junk, or for maintenance or operation of an automobile graveyard. An establishment or place of business which stores or keeps, for a period of 90 days or more, materials within the meaning of "junk" as defined in this section which had been derived or created as

a result of industrial or commercial activity shall be deemed to be a junk yard within the meaning of this Ordinance. A junk yard shall be presumed to have been created when an area of 600 square feet or more of "junk materials" are kept or stored at any given place whether for profit or not. Materials enclosed in closed buildings, solid waste containers or rolling stock (I.e. rail cars, trailer, or other containerized body not intended or designed to be self propelled) are excluded.

Junk Yard Control Act - N.C. General Statutes 136 - 141 through 155 (Article 12) which delegate to the N.C. Department of Transportation the responsibility to regulate "junk yards" and automobile graveyards" located on interstate and federal-aid primary system highways.

Motor Vehicle - Any vehicle or machine designed or intended to travel over land by self-propulsion.

New Junk Yard - Junk yards established after the effective date of this Ordinance or existing junk yards which do not register within the specified time limit in order to meet the designation of pre-existing.

Opaque - A substance that cannot be seen through when viewed perpendicularly at the same elevation.

Ordinance Administrator - The County Manager or his designee.

Pre-Existing Junk Yard - Junk yards in existence at the time of effective date of this Ordinance which registers within the specified time.

Public Road - Any road or highway which is now or hereafter designated and maintained by the N.C. Department of Transportation as part of the State Highway System.

Recycling Center - A temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and moved off site or kept on site in buildings, storage bins, solid waste containers, truck trailers and other rolling stock.

Residence - A house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one (1) or more humans.

School - any public or private institution for the teaching of children under 18 years of age which is recognized and approved by the N.C. Board of Education or other appropriate licensing boards.

Service Station - Any establishment which is maintained and operated for the purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs, servicing and/or washing of motor vehicles and which is used to store not more than six (6) motor vehicles that are not capable of being driven under their own power and are not being restored to operable conditions regardless of the length of time that individual motor vehicles are stored, or kept at such property. If the service station is listed as a business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six (6) additional motor vehicles as described herein may be allowed.

Vegetation - All season or evergreen vegetation shall mean evergreen trees with leaves or foliage at all seasons of the year and shall include, but not be limited to, white pine, southern pine, hemlock and spruce trees.

Un-zoned Area - An area where there is no zoning In effect.

Vectors - An organism that carries disease-causing micro-organisms from one host to another (e.g. rats, mosquitoes, etc.)

Visible - Capable of being seen without visual aid by a person of normal visual acuity.

Section 5: EXEMPTIONS OF ORDINANCE

The following uses and activities are exempted;

- A. Bona fide service stations or garages as defined by this Ordinance are exempted.
- B. All bona fide farms and farm related uses.
- C. Recycling centers using enclosed structures or solid waste containers, bins, truck trailers and rolling stock to store materials and equipment.
- D. Salvage material or junk cars in enclosed buildings.

SECTION 6: PROCEDURES: REGISTRATION AND PERMITTING

6.1 Registration Time Period

All owners, operators, or maintainers of automobile graveyards or other junk yards existing at the effective date of this Ordinance shall register same with Sampson County within a period of 30 days from the effective date of this Ordinance. All existing automobile graveyards or junk yards that have not been

registered within 30 days shall be in violation of the registration provisions of this Ordinance. Unless said junk yards can be documented to the satisfaction of the Ordinance administrator as existing prior to the effective date of this Ordinance they shall be considered new junk yards. If so documented, said junk yards may be considered existing junk yards, be required to register and required to comply with the provisions and standards of this ordinance.

6.2 Registration Application

Registration shall be accomplished by completing a registration application and paying a fee as established by the Board of County Commissioners. The Ordinance administrator shall provide the necessary forms for the registration application. The registration application shall include but not be limited to the following information: Land Owner's and junk yard operator's name, address and phone numbers for business and home. State and/or local business registration number or licenses. The location of the property by township, state road number and property identification number. The total acreage of the property and approximate acreage involved in the junk yard operation.

One copy of the completed signed registration application shall be submitted to the Ordinance administrator.

6.3 Time Period for Permit of Registered Junk Yards

All existing junk yards at the effective date of this Ordinance, registered in accordance with Subsection 6.2, shall be granted a period of 90 days from the effective date of registration to receive a permit. Thereafter same shall be in violation of the permitting provisions of this Ordinance.

6.4 Permit Required for Junk Yards

No person, firm or business entity shall establish, operate, or maintain a junk yard without obtaining a permit except existing junk yards specified in subsection 6.3. Any expansion of a junk yard, whether pre-existing or newly permitted, shall require a permit. The permit shall only be issued upon the persons, firm or business entity seeking the permit submitting a statement that the existing or proposed junk yard does not violate any of the provisions of this Ordinance. The permit shall be valid unless revoked for non-conformance with this Ordinance.

6.5 Permit Application

Application for the permit shall be made to the administrator of the Ordinance, on such forms as the administrator of the Ordinance shall prescribe along with a non-refundable permit fee as established by the Board of County Commissioners. The permit application shall include but not be limited to the information required for the registration application and a junk yard plan.

The plan shall indicate setbacks, location of public right-of-ways, all proposed structures, all structures within 500 feet of junk yard, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions of junk yard, gross acreage, preparer of plans name(s) and address(es) and phone numbers. Plans shall be at a scale no larger than 1 inch equals 400 feet. Three copies shall be submitted. Any expansion of a junk yard, whether pre-existing or newly permitted, shall require a permit. Procedures and standards for an expansion permit shall be those required for a new establishment.

6.6 Permitting Procedure

The completed permit application and junk yard plan shall be submitted to the Ordinance administrator. The administrator shall have the authority to either approve or deny the permit. A denied permit may be resubmitted within 14 days from the date of denial without incurring an additional permit fee.

6.7 Permitting Compliance

Junk yards discovered after the registration time period of Section 6.1 but documented to the satisfaction of the Ordinance administrator as being in existence prior to this Ordinance shall conform to applicable portions of this Ordinance in twelve (12) months from the date of discovery.

New junk yards shall conform to the approved permit and standards of this Ordinance prior to the establishment of the use as a junk yard on the property. Failure to meet the requirements of the approved permit and standards of this Ordinance shall be a violation of the compliance provisions of this Ordinance.

SECTION 7: GENERAL STANDARDS

7.1 Pre-existing Junk Yards

The following criteria shall be applicable to pre-existing junk yards. Existing buildings, equipment, and operations of the junk yard are excluded. All pre-existing junk yards shall be brought into compliance with the criteria below within twelve (12) months from registration as a pre-existing junk yard.

- A. All new buildings, equipment, operations (except roads), and all junk (pre-existing or new) shall not be situated within 50 feet of an intermittent or continuously flowing stream as designated on the most recent U.S. Geological Survey Maps. Same shall not be closer than 100 feet to the bank of a river or an intermittent or continuously flowing stream that is located within one half mile of a river; and
- B. All new buildings, equipment, operations (except roads), and all junk (pre-existing or new) shall not be situated within fifty (50) feet of the front property

lines, or fifty (50) feet from the right of way of any State maintained road or highway; and

- C. All new buildings, equipment, operations (except roads), and all junk (pre-existing or new) shall not be situated within ten (10) feet of the side and rear property lines, or fifty feet (50) from the right of way of any State maintained road or highway; and
- D. If the junk yard is within 100 feet of an occupied structure, excluding a residence occupied by the junk yard owner and/or operator, the following fencing requirements shall apply:
 - a. A fence shall be situated between the junk yard and the occupied structure to screen from view all junk from the existing residential property; and
 - b. The fence shall be a minimum of six (6) feet in height, must be opaque, and made of materials normally accepted in the fencing industry; and
 - c. When fencing is required there shall be screening according to section 7.1 E below.
 - d. Fencing requirements shall not apply if:
 - i. a residence or occupied structure is constructed on land purchased after the junk yard is registered or permitted, if not otherwise applicable; or
 - ii. The junkyard is screened from view by natural vegetation.
- E. Property that is visible from the public state maintained road shall provide an opaque fence a minimum of six (6) feet in height, and made of materials normally accepted in the fencing industry along the road side of the property and install vegetation that provides a continuous all season opaque screen at least six (6) feet in height within four (4) years of planting or setting said vegetation. Vegetation not less than two (2) feet in height at the time of planting shall be planted in front of any required fencing. Additional screening may not be required along the road when natural vegetation exists that provides an all season opaque screening. This does not exempt the property from being fenced as specified in Section 7.1 E.

In addition to screening the roadside view of the junk yard, vegetation shall be maintained as a continuous, unbroken hedgerow around the entire portions of the property used as a junk yard. The vegetation serving as the screen for the junk yard shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least six (6) feet along the length of the fence and/or boundary surrounding the junk yard or automobile graveyard. Screening may not be required when natural vegetation exists that provides an all season opaque screening.

Each owner, operator, or maintainer of a junk yard shall utilize good husbandry techniques, such as pruning, mulching, and proper fertilization, so that the vegetation will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

- F. All junk and/or inoperable motor vehicles shall be kept within the confines of said fence and vegetative screening at all times unless in motion by transport to or from the site.

7.2 New Junk Yards

All junk yards which are established from and after the effective date of this Ordinance, shall meet the following standards:

- A. Not be located closer than 500 feet to a pre-existing church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, public recreation facilities or residence (excluding residence of the owner or his agent) ;and
- B. Be situated on a parcel of at least four (4) acres excluding rights-of-way that is undivided by public road right-of-way or public dedication; and
- C. The driveway or entrance roadway may not be located closer than 30 feet from any side property line; and
- D. All buildings, equipment, operations (except roads), and junk shall not be situated within 50 feet of an intermittent or continuously flowing stream as designated on the most recent U.S. Geological Survey Maps. Same shall not be closer than 100 feet to the bank of a river or an intermittent or continuously flowing stream that is located within one half mile of a river; and
- E. All buildings, equipment, operations (except roads), and junk shall not be situated within fifty (50) feet of the front property lines, or one hundred (100) feet from the right of way of any State maintained road or highway; and
- F. All buildings, equipment, operations (except roads) and junk shall not be situated within ten (10) feet of the side and rear property lines, or one hundred feet (100) from the right of way of any State maintained road or highway; and
- G. Property that is visible from the public state maintained road shall provide an opaque fence a minimum of six (6) feet in height, and made of materials normally accepted in the fencing industry along the road side of the property and install vegetation that provides a continuous all season opaque screen at least six (6) feet in height within four (4) years of planting or setting said

vegetation. Vegetation not less than two (2) feet in height at the time of planting shall be planted in front of any required fencing. Additional screening may not be required along the road when natural vegetation exists that provides an all season opaque screening.

In addition to screening the roadside view of the junk yard, vegetation shall be maintained as a continuous, unbroken hedgerow around the entire portions of the property used as a junk yard. The vegetation serving as the screen for the junk yard shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least six (6) feet along the length of the fence and/or boundary surrounding the junk yard or automobile graveyard. Screening may not be required when natural vegetation exists that provides an all season opaque screening.

Each owner, operator, or maintainer of a junk yard shall utilize good husbandry techniques, such as pruning, mulching, and proper fertilization, so that the vegetation will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

- H. All junk and/or inoperable motor vehicles shall be kept within the confines of said fence and vegetative screening at all times unless in motion by transport to or from the site.
- I. On-site traffic areas shall be provided and arranged in a manner to provide adequate areas to prevent backward movement onto the state maintained road.

SECTION 8: MAINTENANCE

All junk yards shall be maintained to protect the public from health nuisances and safety hazards.

The Sampson County Health Department may inspect each junk yard to determine that no vectors are present. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department and Planning Department that vectors have been eliminated. Failure to comply with this Section may result in revocation of permit as well as other penalties and remedies for violation as provided for in Section 9.

SECTION 9: ENFORCEMENT PROVISIONS

The County Manager or his designee shall enforce this Ordinance. He may call upon other agencies as necessary to assist in enforcement of this Ordinance.

In addition, whenever the County Manager or his designee receives a complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.

The owner, tenant, or occupant of any building or land or any part thereof and agent or other person who participate in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

The following procedure shall apply upon discovery of a violation.

- A. If the administrator finds that any provisions of this Ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days or months within which the violation shall be corrected. If applicable, the violator shall be informed of his right to appeal to the Board of Adjustment.
- B. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this Section.

Penalties and remedies for violations shall be as follows:

- A. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, shall constitute a misdemeanor, punishable by a fine of up to \$500.00 or imprisonment, as provided in N.C. General Statute 14-4.
- B. Any violation of the provisions of this Ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$500.00 per violation. If the offender fails to pay this penalty within 10 days after being cited for a violation, the penalty may be recovered by the County in a civil action in the nature of debt.
- C. This Ordinance may also be enforced by any appropriate equitable action. Such remedy may include court order of abatement as part of a judgment in the cause. The abatement order may include removal of junk from illegal junk yards and other actions required to make the property comply with the provisions of this Ordinance at the owner's expense.

- D. Each day that any violation continues after final notification by the administrator that such violation exists may be considered a separate offense for purposes of the penalties and remedies specified in this Section.
- E. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance. In addition to the foregoing enforcement provisions, this Ordinance may be enforced by any remedy provided in N.C. General Statute 153A-123, including, but not limited to, all appropriate equitable remedies provided in N.C. General Statute 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed in N.C. General Statute 153A-123(e).
- F. Any building permit(s) associated with the property that has the junk yard permit may be revoked by the permit issuing authority (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the Sampson County Board of Commissioners.
 - 1. Before such permit(s) may be revoked, the permit recipient shall be given 10 days written notice of intent to revoke any relevant permit. The notice shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations before the County Manager. If any relevant permit is revoked, the Ordinance administrator shall provide to the permittee a written statement of the decision and the reasons there for.

9.1 Relief

Unless otherwise listed, appeals from the specific provisions of this Ordinance and appeals from any ruling of the Ordinance administrator shall be submitted to the Sampson County Board of Adjustment within 10 days of receipt of adverse action or ruling.

9.2 Variance

The Board of Adjustment may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in practical difficulty or extreme hardship, and so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done, such variance may be granted

in such individual case of extreme hardship upon a finding by the Board of Adjustment that the following conditions exist:

- A. There are extraordinary and exceptional conditions pertaining to the particular place or property in question because of its size, shape or topography that are not applicable to other automobile graveyards and junk yards governed by this ordinance.
- B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other operators of other automobile graveyards and junk yards governed by this Ordinance.
- C. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other operators of automobile graveyards or junk yards governed by this Ordinance.
- D. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
- E. The special circumstances are not the result of the action of the applicant.
- F. The variance requested is the minimum variance that will make possible the legal use of the land in question.

In granting a variance the Board of Adjustment shall make findings that the requirements of this Section have been met. The Board of Adjustment shall make a finding, and written notice of the decision shall be prepared and furnished to the applicant. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

9.3 Decision

Decision of the Board of Adjustment may be appealed. The petition for the writ of certiorari must be filed with the Sampson County Clerk of Superior Court within 30 days after the later of the following occurrences:

- A. A written copy of the Board of Adjustment's decision has been filed in the office of the Sampson County Planning Department; and
- B. A written copy of the Board of Adjustment's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for

such copy at the hearing of the case.

A copy of the petition writ of certiorari shall be served upon Sampson County through the Office of the County Manager.

Section 10: EFFECTIVE DATE

This Ordinance shall be come effective upon its adoption, this day

SAMPSON COUNTY BOARD OF
COMMISSIONERS

Chairman

ATTEST:

Clerk to the Board

APPROVED AS TO FORM:

County Attorney