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**AUTOMOBILE SALVAGE YARD AND JUNKYARD ORDINANCE
SURRY COUNTY, NORTH CAROLINA**

An Ordinance of Surry County, North Carolina regulating the development, operation, maintenance and expansion of Automobile Salvage Yards and Junkyards within the unincorporated areas of Surry County, North Carolina.

BE IT ORDAINED by the Board of Commissioners of Surry County, North Carolina that the following Articles and Sections are hereby enacted into law:

ARTICLE I

GENERAL PROVISIONS

Section 1.1 Title

This Ordinance shall be known and may be cited as the Automobile Salvage Yard and Junkyard Ordinance of Surry County, North Carolina.

Section 1.2 Authority

This Ordinance is adopted under the authority of North Carolina General Statutes Chapter 153A, Section 121 (a).

Section 1.3 Jurisdiction

This Ordinance shall govern the development, operation, maintenance and expansion of Automobile Salvage Yards and Junkyards within the unincorporated portions of Surry County, North Carolina.

Section 1.4 Compliance Required

From and after the effective date of this Ordinance it shall be unlawful for any person to develop, operate, maintain or expand any Automobile Salvage Yard or Junkyard within the jurisdiction of this Ordinance except in compliance with the provisions of this Ordinance.

Section 1.5 Definitions

- (a) Automobile Salvage Yard (Yard): Any establishment which is maintained, used or operated for storing, keeping, buying and/or selling six (6) or more wrecked, junked, scrapped, ruined, dismantled or inoperable motor vehicles, regardless of the length of time which individual motor vehicles are stored or kept at said establishment. An existing Automobile Salvage Yard shall be one which was in existence on the effective date of this Ordinance as evidenced by registration of the Yard in accordance with Section 3.3(a).
- (b) Building: Any structure having a roof and completely enclosed with walls.
- (c) Evergreen Vegetation: Trees and/or shrubs which have green foliage throughout the year
- (d) Expansion: The addition of any salvaged automobiles or junk to an existing Yard, the addition of which is visible from adjoining residential property or public road. Any additional property acquired after the effective date of this Ordinance, and used to add junk or junked motor vehicles, whether adjoining an existing Yard or not, shall be subject to the provisions for new Yards.
- (e) Garage or Repair Shop: An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to automobiles, trucks, tractors, farm equipment, lawn movers, and other mechanical and motor vehicles and equipment and which receives seventy percent or more of its gross income from charges made for such repairs.
- (f) Junk: Old or scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked vehicles or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- (g) Junkyard (Yard): Any open area of one thousand (1000) square feet or more which is maintained, operated, or used for storing, keeping, dismantling,

disassembling, salvaging, abandoning, buying or selling junk regardless of length of time that junk is stored or kept, or for maintenance or operation of an automobile graveyard, but shall not include County operated facilities. Mounds of junk which consist of the cubic measurement equivalent of one thousand (1000) square feet shall also constitute a Junkyard. An existing Junkyard shall be one which was in existence on the effective date of this Ordinance as evidenced by registration of the Yard in accordance with Section 3.3(a).

- (h) **Junked Motor Vehicles:** The term junked motor vehicle means 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 a manner in which it originally was intended to move; or
 - (3) is more than five years old and appears to be worth less than one hundred dollars (\$100).
- (i) **Person:** An individual, firm, association, organization, partnership, trust, company, corporation and/or other entity.
- (j) **Public Road:** Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard-surfaced or other dependable highways, and any road which is a neighborhood public road as defined in North Carolina General Statute 136-67, which definition is incorporated into this Ordinance by reference.
- (k) **Screening Device:** A screen that is at least ninety percent (90%) opaque from the ground to a height of at least six (6) feet. The screen is intended to exclude visual contact between adjoining properties and to create a strong impression of special separation. The screen may be composed of a wall, fence, landscaped earth berm, planted evergreen vegetation, or existing evergreen vegetation or a combination thereof.
- (l) **Service Station:** Any establishment which is maintained and operated for the primary purpose of making retail sales of fuel, lubricants, air, water, and other items for the operation and routine maintenance of motor vehicles, and/or making mechanical repairs, servicing and/or washing of motor vehicles, and which receives more than seventy percent of its gross income from the retail sale of the aforesaid items and/or from the making of mechanical repairs, servicing and/or washing of motor vehicles.

ARTICLE II

DEVELOPMENT STANDARDS

Section 2.1 General

All Automobile Salvage Yards or Junkyards, except as exempted by Article III, and all expansions of existing Automobile Salvage Yards or Junkyards shall conform to all of the following development standards.

Section 2.2 Screening Device - Public Road

If an Automobile Salvage Yard or Junkyard or expansion will be visible from a public road, a screening device as defined herein shall be installed so as to effectively visually exclude such Yard or expansion from the public road. Entrances shall be screened or baffled in such a way as to effectively screen visibility when opened. The screening device shall not obstruct public road corner visibility and shall not obstruct visibility at driveway exits to public roads. If vegetation screening is used, the screening device shall be planted so that a mature plant would not encroach upon a public road right of way.

Section 2.3 Screening Device - Adjoining Property

In any case where an Automobile Salvage Yard or Junkyard or expansion will be visible from adjoining property used or subdivided for residential purposes, a screening device shall be installed so as to provide a visual separation between the adjoining property. Such screen shall be installed in such a location as to provide the most effective visual separation but shall not be required to be longer than two hundred (200) feet to provide visual separation for any one adjoining property. However, more than one screening section may be required

to be installed where a Yard shares a common property line with more than one residential property. Such screening device shall not obstruct public road corner visibility. If vegetation screening is used, the screening device should be planted so that a mature plant would not encroach on the adjoining property.

Section 2.4 Proximity to Schools

No Automobile Salvage Yard or Junkyard shall be located or permitted to expand within one-half (1/2) mile radius of any public or private school ground unless the Yard, in addition to the screening requirement, is completely sealed when closed with fencing or other devices which will prevent entry by children but not endanger children.

Section 2.5 Stream and Floodplain Protection

No Automobile Salvage Yards or Junkyards shall be located or permitted to expand:

- (a) Within the one hundred (100) year floodplain as shown on the latest Federal Emergency management Agency maps of the jurisdiction.
- (b) Within five hundred (500) feet and draining of any water course such as a stream, river, pond, or lake located in any Water Supply Watershed with a WS-I through WS-IV classification or within five hundred (500) feet and draining of any water supply reservoir or impoundment.
- (c) Within five hundred (500) feet and draining of any water course such as a stream, river, pond or lake located in an Outstanding Resource Water Watershed.
- (d) Within twenty (20) feet of or within a distance 5 times the width of the stream at the top of the bank (whichever is greater) of any other water course such as a stream or river.
- (e) Within fifty (50) feet of a pond or lake.

Section 2.6 Entranceway

Automobile Salvage Yards or Junkyards that have direct vehicular access from a public road shall obtain a driveway permit from North Carolina Department of Transportation.

Section 2.7 Screening Devices in General

In any case where a screening device is required by this Ordinance, the screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation or a combination. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the species, or field observation of existing vegetation. The opaque portion of the screen must be opaque in all seasons of the year and maintained as long as the Yard exists. If a wall or fence is constructed as a screening device, the material, color and style of the wall or fence must provide for permanency without deterioration and for consideration for pleasant appearance as determined by the Planning Board.

When trees and shrubs are to be used for screening, only varieties which bare foliage down to within one (1) foot of ground level are required. Planted trees and shrubs shall be evergreen and of a variety or combination which are a minimum of three (3) feet in height when planted and which can be expected to reach a screening height in combination of at least six (6) feet within four (4) years from planting. The planting scheme should provide for plantings at such distance and scheme as to provide for the anticipated spread and growth rate of the varieties used as referenced in the North Carolina Department of Transportation Highway Right of Way Planting Guide.

ARTICLE III

EXCEPTION AND MODIFICATIONS

Section 3.1 Enclosed Buildings

Nothing in this Ordinance shall apply to junk, junked and wrecked vehicles and similar material that is contained within a completely enclosed building.

Section 3.2 Garages, Repair Shops and Service Stations

Nothing in this Ordinance shall apply to bona fide garages, repair shops and service stations where the short-term storage of no more than five (5) junked vehicles is incidental to the principal business. In addition, vehicles owned by others being held in the process of storage and collection of mechanics liens shall not be counted as junked vehicles.

Section 3.3 Existing Automobile Salvage Yards and Junkyards

In the adoption of this Ordinance, it is recognized that existing Automobile Salvage Yards and Junkyards may need a period of time to come into compliance with the development standards of this Ordinance. It is also recognized that because of their various locations, proximity to schools and public trust waters, unique topographical situations and other physical circumstances, all existing Yards may not be able to meet all of the Standards as set forth in Article II. Moreover, it is in the public interest to encourage voluntary compliance by existing Yard owners to the maximum extent possible. Therefore, existing Automobile Salvage Yards and Junkyards shall comply with the following procedure:

- (a) Public notice shall be given by advertising in all Surry County newspapers to the effect that all owners of automobile salvage yards and junkyards in the County must register the Yard's location with the Enforcement Officer within three (3) months of the effective date of this Ordinance. The registration shall include a copy of a survey plat or tax map annotated to show the portions of the property wherein salvaged automobiles or junk are kept. Failure to register a Yard shall subject the owner to compliance with the provisions required for new Yards.
- (b) Upon registration, existing Yards are exempt from the requirements of this Ordinance for a minimum of one year from the Ordinance effective date, and voluntary compliance by existing Yards is encouraged. Upon the first anniversary of this Ordinance and annually thereafter, the success or failure of voluntary compliance will be evaluated by the Surry County Planning Board and Board of Commissioners. If voluntary compliance is deemed inadequate to achieve the intent of this Ordinance, the Ordinance will be amended to include mandatory compliance to the extent necessary.
- (c) Expansion of an existing Yard as defined in Section 1.5(d) shall subject the portion of the Yard expanded to be considered as a new Yard, and the owner or operator thereof shall comply with the requirements for a new Yard.

ARTICLE IV

PLAN APPROVAL REQUIRED

Section 4.1 General

Prior to the development, operation or maintenance of a new Automobile Salvage Yard or Junkyard or the expansion of an existing Yard, the owner or his agent of such Yard shall obtain approval of a site plan from the Board of Commissioners and such development, operation, maintenance or expansion shall be in conformance with such approved plan.

Section 4.2 Plan Content

The site plan shall be drawn to scale and 12 copies submitted to the Enforcement Officer by the first working day of the month in which the Planning Board is to review the plan. The plan shall contain such information as is necessary to determine compliance with the Standards of Article II.

Section 4.3 Planning Board Action

Upon receipt of a properly prepared plan, the Planning Board shall recommend to the Board of Commissioners for either approval, approval with conditions or denial of the plan. Failure of the Planning Board to make its recommendation within sixty-five (65) days of first consideration of the plan shall constitute an approval recommendation.

Section 4.4 Board of Commissioners Action

Upon receipt of the Planning Board recommendation, the Board of Commissioners shall, within 30 days, either approve, approve with conditions or deny approval of the plan.

Section 4.5 Compliance Permit

No new Automobile Salvage Yard or Junkyard or expansion to an existing Yard shall be established or commence operation until a Compliance Permit has been issued by the Enforcement Officer stating that the Yard is in full compliance with all the Standards of Article II as shown on the plan and any conditions as may have been imposed by the Board of Commissioners. Establishment or operation of such a Yard without having fully complied with the plan as approved or without a Compliance Permit shall constitute a violation of this Ordinance.

ARTICLE V

ADMINISTRATION AND ENFORCEMENT

Section 5.1 Enforcement Officer

This Ordinance shall be enforced by an Enforcement Officer(s) appointed by the County Manager. In carrying out his duties and responsibilities, the Enforcement Officer shall have the same general powers and duties of a Building Inspector.

Section 5.2 Resumption Prohibited

In any case where an Automobile Salvage Yard or Junkyard is permanently eliminated or ceases to operate for one year as evidenced by failure, within one year of expiration, to renew the privilege license required to operate the Yard, such Yard shall not be permitted to resume operation except in full compliance with the provisions of this Ordinance for new Yards.

Section 5.3 Interpretation, Purpose, Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction or imposes higher standards than those required by other ordinances, rules, regulations, or by easements, covenants, or agreements the provisions of this Ordinance shall govern so that, in all cases, the most restrictive limitation or requirement, or the requirement causing the highest standard of improvement, shall govern.

Section 5.4 Penalties for Violation

Violations of this Ordinance shall constitute a misdemeanor and, at the election of the County, shall subject the offender to a civil penalty upon the issuance of a citation for said violation. The civil penalty, if not paid to Surry County within fifteen days of the issuance of a citation, may be recovered by the County in a civil action in the nature of debt. Said civil penalties shall be in the amount of \$50.00 (fifty dollars) for each violation and each day any single violation continues shall be a separate violation.

In addition to the civil penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the County for equitable relief that there is an adequate remedy at law.

In addition to the civil penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by General Court of Justice. When a violation of such a provision occurs, the County may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any

other action be taken that is necessary to bring the property into compliance with this Ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the County may execute the order of abatement. The County shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

The provision of this Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this Section. Each day's violation of this Ordinance shall constitute a separate violation.

Section 5.5 Other Remedies

Nothing in this Ordinance nor any of its provisions shall be construed to impair or limit in any way the power of the County to define and declare nuisances, health and safety hazards and the like and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in any other ordinances or laws.

Section 5.6 Validity

If any Section, Subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and each Section, Subsection, clause, and phrase thereof, irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases be declared invalid.

Section 5.7 Effective Date

This Ordinance shall be effective upon its adoption by the Board of Commissioners of Surry County, North Carolina.

ADOPTED this the 17th day of August, 1992.