

MARSHALL COUNTY COMMISSION

AN ORDINANCE ESTABLISHING A SALVAGE YARD PERMIT SYSTEM AND PROMULGATING REASONABLE RULES AND REGULATIONS WHICH MUST BE MET PRIOR TO THE ISSUANCE OF SUCH PERMIT BY THE PLANNING COMMISSION; PROVIDING FOR THE APPLICATION PROCEDURE BY PROPOSED OPERATORS; ESTABLISHING FEES FOR SUCH PERMITS; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED BY THE MARSHALL COUNTY COMMISSION OF MARSHALL COUNTY, WEST VIRGINIA, as follows:

ARTICLE 1. AUTHORITY, PURPOSE, TITLE & EFFECTIVE DATE

Section 1.0 General Authority

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

Section 1.1 Purpose

The purpose of this ordinance is to carry out the intent and purpose of the Code of West Virginia relating to licensing and operation of salvage yards within the State of West Virginia. The further purpose of this ordinance is to authorize the Marshall County Planning Commission to promulgate such reasonable rules and regulations including, but not limited to, determining the effect of the proposed salvage yard on residential, business

or commercial property investment and values, and the social, economic and environmental impact on community growth and development in utilities, health, education, recreation, safety, welfare and convenience, if any, before issuing such approval permit.

Chapter 8, Article 24 of the Code of West Virginia further authorizes counties and their planning commissions to perform such administrative services for the appropriate use of land to protect the health, safety, comfort, convenience and general public welfare of its citizens.

Section 1.2 Title

This ordinance shall be known and may be cited and referred to as the "MARSHALL COUNTY SALVAGE YARD PERMIT ORDINANCE".

Section 1.3 Permit-Required

On and after the first day of July, one thousand nine hundred eighty-four, any owner or operator establishing, operating or maintaining a salvage yard for which a license is required under provisions of Chapter 17, Article 23 of the Code of West Virginia is hereby required to obtain a permit from the Marshall County Planning Commission.

Section 1.4 Effective-Date

This ordinance, established by action of the Marshall County Commission shall take effect immediately upon adoption and shall apply to all salvage yards within the unincorporated territory of Marshall County.

ARTICLE 2. DEFINITIONS

Section 2.0 Definitions

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

a. SALVAGE YARD PERMIT OFFICER--shall refer to the person or persons authorized to review salvage yard permit applications; make inspections of proposed site and its affects on other properties and investments; and make recommendations for consideration of the planning commission.

b. COMMISSION--shall refer to the governing body of the county in which such salvage yard is to be located.

c. COMMUNITY IMPACT STATEMENT--A report prepared by an applicant assisted by the Salvage Yard Permit Officer describing the scope and the feasibility of the proposed salvage yard. The Community Impact Statement also describes the physical, social and economic impacts a proposal may bring to the County and to the immediate area.

d. FENCE--shall mean an enclosure, barrier or screen constructed of materials or consisting of plantings, natural objects or other appropriate means approved by the commissioner and located, placed or maintained so as effectively to screen at all times salvage yards and the salvage therein contained from the view of persons passing upon the public roads of this county.

e. OWNER OR OPERATOR--shall include an individual, firm, partnership, association or corporation or the plural thereof.

f. PLANNING COMMISSION--shall refer to the designated agency to administer this ordinance within the county.

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

h. SALVAGE YARD--shall mean 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 automobile hulks, or combination of ferrous or non-ferrous metals together with one or more automobile hulks, or a collection of any salvage contained in an area more than one-quarter acre in size shall be considered a salvage yard.

~~i. 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.~~

ARTICLE 3. PERMIT PROCEDURES AND REQUIREMENTS

Section 3.0 Permit-applications-Procedures

Application for a salvage yard permit shall be made, in writing, to the Salvage Yard Permit Officer, and shall include

all information requested in the approved application form provided by the Planning Commission.

a. An application conference with the Salvage Yard Permit Officer shall be scheduled to assist applicant in preparation of the Community Impact Statement for presentation to the Planning Commission at its appropriate regular meeting.

b. Planning Commission shall place a notice in a newspaper having general circulation within the affected area no less than ten (10) days prior to the meeting, advising the public of the Community Impact Statement and public hearing on the application.

c. The Planning Commission shall approve, approve with conditions or disapprove a salvage yard proposal within forty-five (45) days from completion of the public hearing. Failure to take action within the forty-five (45) 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.

d. 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.

✓ e. Where a salvage yard proposal appears to the Planning Commission to be a major concern, the applicant may be required to submit at his own expense 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. Such a requirement may be imposed after the public hearing and before a final decision is made by the Planning Commission. The time for decision shall be extended for an appropriate period to allow the applicant to comply with the requirement of a detailed site plan.

Section 3.1 Application

The basic format of the Salvage Yard Permit Application shall include, but not necessarily be limited to the following:

- a. Name and address of applicant.
- b. Name and address of owner of the land on which proposed salvage yard is to be established.
- c. Site location map.
- d. Sketch Plan.
- e. A Community Impact Statement as to the affects of the salvage yard on:
 - (1) Description of proposed contents of salvage yard.
 - (2) Residential, business or commercial property investments and values.
 - (3) Impact on community growth and development.
 - (4) Impact on utilities, health, education, recreation, safety, welfare and convenience within the community.
 - (5) Hours of operation.
 - (6) Identification of possible storage or discharge of hazardous wastes.

(7) Economic and social impacts on the community.

(8) Sketch of proposed storm water run-off and control.

(9) Evidence that an application has been made for other required permits and/or licenses.

Section 3.2 FEES

The fee for the approval permit shall be twenty-five (\$25.00) dollars, payable upon the filing of the application.

The approved permit shall be displayed along with the license from the Commissioner of the West Virginia Department of Highways in a place readily accessible for general public inspection.

ARTICLE 4 SITE DESIGN STANDARDS

Section 4.0 Site-Design-Standards

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

a. Setbacks

(1) All salvage yard acres shall be set back a minimum of 300 feet from a state road right-of-way and 100 feet from a rural road right-of-way. Where greater setbacks are required by State or Federal law, the more restrictive shall apply.

(2) A means of access to the interior of the salvage yard shall be a minimum of 20 feet for the allowance of firefighting equipment.

(3) Salvage shall be stored in piles not

exceeding 15 feet in height and shall be arranged so as to permit easy access to all such salvage for firefighting purposes.

(4) No salvage yard shall be closer than 500 feet from any property line.

(5) No salvage yard shall be located within 1000 feet of any existing public or private school, or the property line of land owned by the Marshall County Board of Education, or a public or private playground or recreation area.

(6) No salvage yard shall be located closer to any year-round stream, run, river, pond or other water body closer than permitted by applicable rules and regulations of the Department of Natural Resources pursuant to Article 5, Chapter 20 of the West Virginia Code, and Article 5A, Chapter 20 of the West Virginia Code, nor shall any salvage yard be located within 200 feet of any year-round stream, run, river, pond or other water body. In addition, no salvage yard shall be permitted within the Flood Hazard Areas of Marshall County.

(7) Any structure intended for the burning or incineration of salvage materials must be located within the boundaries of the salvage yard.

b. Fencing And Screening

(1) All salvage yards conducted within one thousand feet of the nearest edge of the right of way of any road within the state road system designated or classified or redesignated or reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems, or conducted within three hundred feet of the

nearest edge of the right-of-way of any state local service road, shall be screened from the adjacent road by natural objects, plantings fences or other appropriate means.

(2) The construction or fences or screening shall be uniform and no patchwork type of construction shall be permitted.

ARTICLE 5. ADMINISTRATION, ENFORCEMENT AND VIOLATIONS

Section 5.0 Administration

This ordinance shall be administered by an employee of the Marshall County Commission to be known as the Salvage Yard Permit Officer. It shall also be the duty of the Salvage Yard Permit Officer to function as enforcement officer as it becomes necessary to initiate administrative or judicial remedies against salvage yard ordinance violators.

The Salvage Yard Permit Officer, 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 5.1 Appeal

Any person aggrieved by a decision of the Salvage Yard Permit Officer and/or the Marshall County Planning Commission with respect to the provisions of this ordinance may appeal that decision to the Marshall County Commission. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Planning Commission. The County Commission

shall set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Public notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard.

Section 5.2 Enforcement

Enforcement of this ordinance shall be the responsibility of the Salvage Yard Permit Officer, who shall make an initial interpretation that a violation has occurred. The Salvage Yard Permit Officer shall prepare a written "Violation Notice and Directive to Cease and Desist" and shall transmit such notice and directive 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 Salvage Yard Permit Officer to request the assistance of the Marshall County Prosecuting Attorney and:

a. Seek an injunction in the Circuit Court of Marshall 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 5.3 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 (\$100.00) nor more than one thousand dollars (\$1,000.00) in accord 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.

ARTICLE 6 AMENDMENT, CONFLICT WITH OTHER LAWS AND SEVERABILITY

Section 6.0 Amendment

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

Section 6.1 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 6.2 Severability

If any article, section, subsection, paragraph, clause or provisions of this ordinance shall be declared by a 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.

ARTICLE 7. ENACTMENT

ENACTED AND ORDAINED THIS _____ DAY OF _____,

1984.

THE COUNTY COMMISSION OF MARSHALL
COUNTY, WEST VIRGINIA

County Clerk

*adopted by Commission
10/30/84*