

SALVAGE YARD ORDINANCE  
HARDY COUNTY, WEST VIRGINIA

Adopted  
Effective

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SALVAGE YARD ORDINANCE  
Hardy County, West Virginia

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 Hardy County Planning Commission is empowered to adopt, administer and enforce reasonable rules and regulation for the establishment, operation or maintenance of a salvage yard.

Section 1.1 Purpose

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

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

## Section 1.2 Title

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

## Section 1.3 Permit Required

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

## Section 1.4 Exempt Activities

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

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

## Section 1.5 Effective Date

This Ordinance, established by action of the Hardy County Commission on \_\_\_\_\_ shall take effect on \_\_\_\_\_ and shall apply to all salvage yards within the unincorporated territory of Hardy County.

## Article 2. Interpretations and Definitions

### Section 2.0 Interpretation

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

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

### Section 2.1 Definitions

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

1. Agriculture: The cultivation of plant crops or the raising of livestock. Agriculture is the organized use of land for the production of plant or animal food, fiber or landscape products. Beef and dairy farms, grain farms, orchards, plant nurseries, and tree farms are forms of agriculture.
2. Building: Any structure which is permanently affixed to the land and has one or more floors and a roof.

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

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

5. County Commission: The Hardy County Commission, three Commissioners elected at-large by magisterial district.

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

7. County Land Development Laws: The Ordinance adopted by the Hardy County Commission for the purposes of monitoring and regulating the development of land. This shall include the Subdivision Ordinance and any other similar Ordinance officially adopted by the County Commission.

8. County Planner: A designated employee of the Planning Commission charged with the administration and enforcement of this Ordinance and other land development laws in Hardy County.

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

10. Grandfather Clause - Provision in a new law or regulation exempting those already in or a part of the existing system which is being regulated.

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

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

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

14. Planning Commission: The Hardy County Planning Commission appointed by the Hardy County Commission to promote the orderly development of the County.

15. Salvage: 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.

16. Salvage Yard: Any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operations and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary landfills. Any collection of three or more junked motor vehicles, or combination of ferrous or nonferrous materials together with one or more junked motor vehicles, or a collection of any salvage contained in an area more than one quarter acre in size, shall be considered a salvage yard.

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

18. 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.

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

### Article 3. Permit Procedures and Requirements

#### Section 3.0 Permit Procedures

Salvage yard proposals are reviewed at three stages:

- Application Conference - Staff
- Community Impact Evaluation - Planning Commission
- Final Public Hearing - Planning Commission

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

- a. A permit application shall be made, on forms provided by the Planning Commission, and shall be submitted to the Planning Commission Office. In addition, the applicant shall submit the following information:
  1. Community Impact Statement as required in Section 3.1.
  2. Sketch Plan as required in Section 3.2.
  3. Appropriate certificate of approval (entrance permit) from the West Virginia Department of Highways.
  4. Other permits, licenses or approval required under County, State or Federal Laws or written evidence that application has been made and received for such approvals.
- b. Upon submission of a completed application and required information, an APPLICATION CONFERENCE shall be scheduled between the applicant and the Planning Commission Staff.
- c. At the APPLICATION CONFERENCE the applicant and staff review and discuss the materials submitted. The scope of the proposed salvage yard is examined according to the impact it will have on the physical, social, and economic conditions within the County. Modifications to the Community Impact Statement or the sketch plan are made by the applicant, if appropriate. The applicant is advised of the date and time his proposal will be brought before the Planning Commission for the Community Impact Evaluation.
- d. Planning Commission places a notice in a newspaper having general circulation within the affected area no



less than ten days prior to the meeting, advising the public of the Community Impact Evaluation before the Planning Commission.

- e. COMMUNITY IMPACT EVALUATION is held before the Planning Commission during a regular meeting. The Planning Commission reviews the sketch plan and Community Impact Statement. The Planning Commission renders a decision whether to approve the concept, require additional information, or deny the application. Examples of other information which may be required are a more detailed Community Impact Statement or a detailed site plan.
- f. If the salvage yard application is disapproved, the applicant is advised in writing of the Planning Commission actions and of the specific reasons upon which the action was based.
- g. If the application is approved in concept of the information required by the Planning Commission, and is deemed sufficient by the staff to meet the concerns of the Planning Commission, a date shall be set for a public hearing at a regular meeting of the Planning Commission.
- h. The Planning Commission shall place a notice of public hearing in a newspaper having general circulation within the affected area no less than 10 days prior to the hearing.
- i. The public hearing is held before the Planning Commission in order to solicit new or revised information from the public not previously considered at the Community Impact Evaluation stage. The Planning Commission, after considering public comment, all previous information and comment, the provisions of this Ordinance, and the provisions of Section 17-23-4 of the Code of West Virginia, may approve, approve with conditions or disapprove the salvage yard proposal.
- j. The Planning Commission shall approve, approve with conditions or disapprove a salvage yard proposal within forty-five days from completion of the public hearing. Failure to take action within the forty-five days shall result in the approval of the application, unless a waiver of this time period is granted to the Planning Commission by the applicant.
- k. If the salvage yard application is approved with conditions, the conditions must be met prior to

issuance of a permit, where applicable, or must be attached to the permit.

1. If the salvage yard application is disapproved, the applicant is advised in writing of the Planning Commission action and of the specific reasons upon which the action was based.

### Section 3.1 Community Impact Statement

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

- a. Basic descriptive information about a salvage yard proposal shall include:
  1. Name and address of owner/developer.
  2. Name and address of contact person.
  3. Tract size, shape and location.
  4. General description of the nature of the salvage yard, the types of materials to be stored.
  5. Number, approximate size and location and intended function or use of proposed buildings on the sites, if any.
  6. General description of surface conditions (topography).
  7. Soil and drainage characteristics.
  8. General location and description of existing structures.
  9. General location and description of existing easements or rights-of-way.
  10. Existing covenants and restrictions.
  11. Intended improvements.
  12. Intended earthwork that would alter the

topography.

13. Tentative development and construction schedule.

- b. A discussion of the relationship of the proposed salvage yard to the community (County) and the area around the salvage yard shall consider the following items:

#### Physical Impacts

1. Earthwork, as it affects drainage, removal of vegetation and soil, and alteration of the natural terrain.
2. Conversion of farmland to a nonfarm use.
3. Wildlife populations.
4. Groundwater and surface water resources--use, depletion, contamination, flow change.
5. Compatibility of the proposal with the surrounding area in terms of land use and visual appearance.
6. Impact on sensitive natural areas such as water recharge areas, stream and river banks, hillsides, forests, wetlands and water bodies.

#### Social Impacts

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

#### Economic Impacts

11. Property tax evaluation.
12. Local employment implications.
13. Expected changes in property values.

The method by which the applicant prepares and presents a CIS is left to the discretion of the applicant. Where a salvage yard proposal appears to the Planning Commission to be of major concern, the applicant may be required to prepare a CIS according to the outline presented in The Environmental Impact Handbook by Robert W. Burchell and David Listokin (Rutgers University, New Brunswick, New Jersey: 1975).

### Section 3.2 Sketch Plan

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

- a. Natural features such as watercourses, rock outcroppings, sink holes, quarries and wooded areas.
- b. Areas proposed for the storage of salvage and the specific type of salvage proposed.
- c. Location of buildings or structures, if any.
- d. Proposed access and the internal road network.
- e. Parking areas for customer and employee parking for safety reasons.
- f. Measures proposed to manage stormwater and to minimize erosion.
- g. Salvage and building setback lines.

Where a salvage yard proposal appears to the Planning Commission to be a major concern, the applicant may be required to submit a detailed site plan prepared by a licensed surveyor or engineer indicating the specific site characteristics, proposed stormwater management plans, erosion and sediment controls and detailed construction plans for all improvements. Additional information or detail may be required by the County Engineer.

### Section 3.3 Performance Guarantees

Where there appears to be a need to ensure that certain improvements are completed or the salvage yard is maintained and

operated in accordance with this Ordinance, the Planning Commission may require that a construction bond, or other form of surety, be provided. The form of surety and the amount shall be acceptable to the Planning Commission and must be approved by the County Commission.

#### Section 3.4 Fees

A fee of twenty-five dollars (\$25.00) shall be charged for each application submitted to the Planning Commission for a salvage yard.

#### ARTICLE 4. Location and Site Design Standards; Operating Requirements

##### Section 4.0 Location Standards

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

- a. No salvage yard shall be located closer than 1000 feet of an existing residence or 5000 feet from a residential community.
- b. No salvage yard shall be located within 1000 feet of any existing public or private school, or land owned by the Hardy County Board of Education, or a public or private playground, park or recreation area.
- c. No salvage yard shall be located within 500 feet from any year-round stream, run, river, pond or other water body. In addition, salvage yards are prohibited within a Flood Prone Area as determined by the Flood Ordinance.
- d. All salvage yards should have direct access to a State highway. Access through a private road may be considered if the applicant provides written evidence that the following criteria is met:
  1. All private road rights-of-way with a 16ft travelway shall be at least 40 feet in width. Greater right-of-way widths may be required by the County and
  2. All private road rights-of-way shall be an exclusive right-of-way;

OR

3. All parties of interest in a non-exclusive right-of-way shall consent to the use of the private road for the purposes of a salvage yard with a written recorded agreement.

#### Section 4.1 Site Design Standards

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

a. Setbacks.

1. All salvage yard areas shall be set back a minimum of 1000 feet from a State road right-of-way. Where greater setbacks are required by State or Federal Law, the more restrictive shall apply.
2. All salvage material shall be stored no closer than 20 feet from the perimeter fence or screening to allow access for emergency and fire fighting equipment.
3. Any structure intended for the burning or incineration of salvage material shall be no closer than 100 feet from any property boundary.

b. Fencing and Screening

1. All outdoor storage of salvage material shall be conducted entirely within an enclosed fence, wall, or other solid screen. All driveways through the fence shall be similarly screened. Such solid screen shall be constructed on the front, sides and rear of the storage area, in accordance with the setbacks above, and shall be constructed in such a manner that no salvage material is visible from an adjacent property, private road or State road.

Additional site design standards may be required by the Hardy County Planning Commission at the recommendation of the Planning Commission staff pursuant to the purposes of this Ordinance (Section 1.1 Purpose).

#### Section 4.2 Operating Requirements

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

- a. The storage of salvage material outside the perimeter fence or within the setbacks required by the State of

West Virginia, whether temporary or permanent, shall be prohibited, unless stored within a building.

- b. All fencing and screening shall be maintained in a manner acceptable to the County Planner, and all plant material used for screening shall be maintained in a live and healthy condition.
- c. All salvage materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin. Where necessary, this shall be accomplished by enclosures in containers, raising material above ground, separation of types of material preventing the collection of stagnant water, extermination procedures, or other means.
- d. All storm water shall be controlled on site so as to prevent standing water to minimize any adverse effect on adjoining property.
- e. No salvage material shall be allowed to rest upon or protrude over any public street or become scattered or blown off the premises.
- f. Salvage shall be stored so as to permit easy access to all salvage for fire fighting purposes, including a 20 foot buffer area around the perimeter of the salvage yard.
- g. No salvage or other material shall be burned on the premises unless in structure or location approved by the local fire service.
- h. The storage of electrical transformers, whether temporary or permanent, shall be prohibited.
- i. The storage of materials classified as hazardous waste by the State of West Virginia shall be prohibited.
- j. Gasoline, oil, anti-freeze and all other fluids shall be removed from any scrapped engines, vehicles or machinery prior to storage on the premises. All fluids removed shall be properly disposed of off the premises.
- k. No combustible materials of any kind, other than those necessary for the salvage yard or products of processing salvage material shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

1. Any space not included in the permit approved by the Planning Commission shall not be used for the storage of salvage material.

## ARTICLE 5. Administration, Enforcement, Violations

### Section 5.0 Administration

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

### Section 5.1 Enforcement

Enforcement of this Ordinance shall be the responsibility to the County Planner, who shall make an initial interpretation that a violation has occurred. The County Planner 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 County Planner to request the assistance of the County Prosecuting Attorney and:

- (a) Seek an injunction in the Circuit Court of Hardy 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 5.2 Violations

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



### Section 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 nor more than one thousand dollars in accordance with Chapter 17, Article 23, Section 9 of the Code of West Virginia. Each month, or portion of a month in which a violation of this Ordinance is committed, continued or permitted, shall constitute a separate offense.

## ARTICLE 6. Variance, Appeal, Amendment, Conflict with Other Laws; Validity

### Section 6.0 Variance

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

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

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

### Section 6.1 Appeal

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

### Section 6.2 Amendment

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

### Section 6.3 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 6.4 Validity

If any article, section, subsection, paragraph, clause or provision 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.

September 21, 1994